

IN THE
COURT OF APPEALS
FIFTH DISTRICT OF TEXAS AT DALLAS

RECEIVED
Court of Appeals

JAN 29 2019

Lisa Matz
Clerk, 5th District

5th Court of Appeals
FILED: 02/06/2019
14:03:01
Lisa Matz, Clerk

CAUSE NO. 05-18-00567-CV

DARLENE C. BALISTRERI-AMRHEIN, APPELLANT

VS.

ATTORNEY LENNIE BOLLINGER, ET AL, APPELLEES

Appeal County Court at Law # 6, # 5, # 2, # 366, # 380, Justice Court Precinct 1,
Cause No. CC 006-02654-2017, Cause No. 005-02654-2017,
Cause No. 002-02654-2017, Cause No. 002-02663-2017,
Justice Court Precinct 1 No. 01-SC-16-00165. Court # 380 (unassigned)
Collin County, Texas Lower Courts

APPELLANT'S AMENDED BRIEF & AMENDED APPENDIX (# /)

Darlene C. Balistreri-Amrhein, Appellant, Pro Se,
112 Winsley Circle
McKinney, Texas 75071
Telephone – None

ORAL ARGUMENT REQUESTED WITH ACCOMMODATIONS

|

COURT RECORD REFERENCES ARGUMENT IN 8 PACKETS

(Packet # 1 Court Record References) –CR, pgs. 1 – 19 itemized, costs & events;

2) Plaintiff's Original petition & Request for Discovery- CR pgs. 20 – 35;

3) Plaintiff's Motion to proceed in forma pauperis - CR pgs. 36 – 41;

4) Approved "indigent status" - CR pgs. 42;

5) Service of process by constable – CR pgs. 43-50;

6) Defendants Lennie Bollinger, et al Answers suit – CR pgs, 51 – 64;

7) Plaintiff's Motion For Leave To File Supplement Petition CR pgs. 65 – 69;

8) Plaintiff's Supplement Pleadings -CR pgs, 70 – 133 Exhibits A, B;

9) Plaintiff's Motion t. Recuse Judge Walker – CR, pgs, 134 – 139 Order transfer;

10) Defendants Motion to Dismiss & Rule 91a – CR, pgs. 140 – 158;

11) Plaintiff's Specific Facts Dismiss Rule 91 – CR. pgs. 159- 268 Exhibits, etc.; c

(Packet # 2 Court Record References.)Legal Ethics Safekeeping Property, etc.;

2) CR. pgs. 269- 383; Notice of hearing & Hospitalized, CR pgs. 384 – 385;

3) Plaintiff's Motion for Continuance CR. pgs. 386 -390;

4) Defendants' Attorneys First Amended Answer & Response, CR. pgs. 391- 408;

5) Plaintiff's Notice To Court & Attorney Stay Lawsuit- CR pgs, 409=422;

6) Defendants Response Objections to Stay & Continue Lawsuit-CR pgs. 423-428;

7) Judge Wilson denies ADA, Stay, Hearing Rule 91a "Orders" –CR pgs. 429-429;

8) Affidavit Attorney / Judge Wilson – CR pgs. 430- 433 Exhibits, Costs to 442;

9) New Supplements-CR. pgs. 452 –484 (Dad, Schroeder mug photo, arrest, etc.;

(Packet # 3 Court Record References.) Plaintiff Waiving Client – Attorney .
Privilege, Photo Damages, etc.– CR. pgs. 485 – 660;

2) Defendants' Attorneys response to Motion To Dismiss – CR pgs, 661- 678;

3) Plaintiff Second Motion To Stay & Continue Lawsuit- CR pgs. 679 – 687;

4) Plaintiff Response to Jan. 30, 2018 Order CR. pgs. 688 – 739;

5) Defendant Motion To Determine To Be “ Vexatious Litigant & Security With Security – CR pgs. 740-784 – No Attached 5 Adverse Orders in 7 years, etc.;

(Packet # 4 Court Record Reference.) Exhibits A-2 -E-1 - CR pgs. 785- 1000;

(Packet # 5 Court Record Reference.) Exhibits E-2, G-2 – Tampered With Deposition, Witness, Court Reporter, Records, Costs to CR pgs. 1001- 1127;

2) Motion to Recuse Judge Wilson & Threats To Settle -CR. pgs. 1128 – 1156;

3) Threat Offer To Settle Lawsuit – CR. pg. 1134- 1134;

4) Order to Deny Recusal- CR. pg, 1157;

5) Plaintiff Notice , Objections & Illegal Activities – CR pgs 1158 -1184;

6) Plaintiff’s First Amended Pleadings & 15 Notices (Crimes) - CR pgs 1185 – (1235 & 1236 blurred unreadable) & crimes to 1260;

(Packet # 6 Court Record Reference.) Order granting Rule 91a & Motion to Dismiss With Prejudice CR pgs. 1261 – 1262 Hearing / Hospitalized, Exhibits & Some Exhibit F (blurred & missing from Court Record to 1284;

2) Judge Wilson recuses self, report to U.S. Department of Justice CR pgs, 1285;

3) First Amend Motion Order “Vexatious Litigant” Hearing – CR. pg. 1286- 1287;

4) Judge Murphy transfer lawsuit to Judge Bender disqualified =- CR pg. 1288;

5) Plaintiff Important Information – CR. pgs. 1289 – 1427, & Exhibits;

6) Judge Mary Murphy Conditions of Assignment & Stay – CR pgs. 1428- 1429;

7) Plaintiff’s Notice & Objections of Judge Bender Transfer, Response by Bollinger’s Attorneys – CR, pgs. 1430-1466;

8) Plaintiff’s Updated Medical Information – CR. pgs 1467-1481;

(Packet # 7 Court Record Reference.) Defendant Response for hearing & Exhibits Comingle lawsuits with Prosperity Bank, et al - CR. pgs. 1482 – 1520;

2) Defendants to Plaintiff Response on Vexatious litigant & Security & use of Prosperity Bank, et al Federal Lawsuit in “conspiracy” & tampered with Deposition Court Records as invalid & past 7 years as 2009 to prejudice & discredit & still pending & active conspiracy between federal & Texas Courts – to rigged, Plaintiff, silence lawsuit & prevent no redress for any suits & denied

freedom of speech & redress for all damages, loss of property & no due process - CR, pgs. 1521- 1600 - 1899;

(Packet # 8 Court Record Reference.) Certificate of Service falsified claims filed in lawsuit, CR pg, 1900 signed by Carrie Johnson Phaneuf as many times;

- 2) Threats to settle lawsuit as refused, CR, pgs. 1901- 1902;
- 3) Plaintiff's Objections & Responses to Plaintiff Tertiary (Third Motion To Recuse in this case an incorrect Assigned disqualified trespasser with no jurisdiction & Exhibits - CR pgs. 1903 – 1932;
- 4) Judge Wheeler Order denied Recusal of Judge Bender for his misconduct – CR pgs 1933;
- 5) Judge Bender Order declaring Darlene C. Amrhein “vexatious litigant,” requiring Security & issuing a prefiling Order – CR. pgs. 1934 – 1935;
- 6) Letter from CME on Order Judge Bender Order declaring Darlene C. Amrhein “vexatious litigant,” requiring Security & issuing a prefiling Order-CR 1936-1938;
- 7) “Conspiracy” with Federal Court & Texas Court, Orders – CR pgs. 1939-1959 found in Judge Bender Court file for their retaliations against Amrhein lawsuits;
- 8) Plaintiff Objections to Judge Bender for “good cause” – CR pgs. 1960 -2019;
- 9) Amended Order On Motion To Recuse Judge Bender- CR. pgs. 2020;
- 10) Letter on failed bond to dismiss lawsuit by Bollinger Attorney with prejudice – CR pgs. 2021- 2024;
- 11) Plaintiff Darlene C. Balistreri-Amrhein Sworn Affidavit – CR pgs. 2025-2052;
- 12) Plaintiff's Motion to Charge Sanctions , Reverse false Vexatious Litigant Refuse Dismissal of lawsuit, Service of Process to All Defendants For “Good Cause’ Reasons & Medical Stay Objections- CR pgs. 2053 -2081;
- 13) Judge Bender Order Dismissal With Prejudice Prohibiting New Litigation by Plaintiff Without Judicial Approval – CR pg. 2082 (back dated);
- 14) Filed for Service of Process to all Defendants mailed May 11, 2018, File stamped May 15, 2018 & called clerk to not do this work,-CR pgs. 2083- 2089;
- 15) Plaintiff's Notice of Appeal & Docket Statement – CR. pgs. 2090- 2109;
- 16) Plaintiff's Request Finding of Fact & Conclusion of Law May 14, 2018 My 14,

- 2018, required.- CR. 2110 –2142 (Void Judgments & CPRC Chapter 11);
- 17) Danyelle Turner filed Notice of Appeal May 14, 2018 wrong date – CR pgs. 2143 – 2144;
- 18) Response by Defendants' Attorneys to Finding of fact & Conclusion of law – CR pgs. 2145 – 2147;
- 19) Communications with Court of Appeals – CR pgs. 2148=2151;
- 20) Collin County Court letter shows date of Court of Appeal to grant more time for Court Record By Danyelle Turner extension on Court Record for manipulation with no answers for finding of fact & Conclusion of Law – CR pgs. 2152;
- 21) Court Record Submitted – CR. pg. 2153;
- 22) Court Record Payment by In forma Pauperis approved by Collin County Court- CR 2154; (See Collin County Court Approval Pg. 42 in same lawsuit when filed & then refused by trespasser Judge Bender after filed Appeal to keep out of Court Record with no notice to Plaintiff / Appellant as not turned over to Court of Appeals into this Court Record in retaliation by criminal, corrupt, trespasser Judge Bender with no authority, treason against U.S. Constitution & Texas Constitution
- 23) Sensitive Data Court Records sealed, were not done – CR pgs. 2155 -2157; Known no payment as approved In Forma Pauperis in case, so false statement to Court of Appeals Court- CR pg. 2158 by Court Record Keeper, Danyelle Turner to mislead Court to blame Plaintiff for delays to tamper with Court Record in Appeal & known by Stacy Kemp;
- 24) Plaintiff files Response & Objections to Defendants Objection to finding of fact & Conclusion of Law - CR pgs. 2159 – 2191;
- 25) Court of Appeals communications – CR pgs. 2192-2195; Writ of Mandamus Memorandum Opinion - CR pgs. 2196 – 2197 – 2200;
- 26) Court of Appeals list & proof of some conspiracy parties. Judge Mazzant (federal) Courts & Cases missing in Judge Paul Raleeh Court, Judge Barnett Walker, First Regional Administrative Judge Mary Murphy, Prosperity Bank, et al are missing from list by Ms. Matz – CR pgs. 2198- 2199- 2201 – 2202;
- 27) Jennifer K. Corley Contest of Court Reporter – CR pg. 2203; Missing Court Order – CR. pg. 2204; Clerks Certificate for Appeal by Danyelle Turner & Stacy Kemp missing Court Records in all Courts- CR pg. 2205;

#1

(1)

CLERK'S RECORD

Volume 1 of 1

Trial Court Case No. 006-02654-2017

Appellant Case No. 05-18-00567-CV

In County Court at Law 6
of Collin County at McKinney, Texas

Honorable Jay Bender, Judge Presiding

FILED IN
5th COURT OF APPEALS
DALLAS, TEXAS

7/31/2018 12:57:51 PM

LISA MATZ
Clerk

Darlene Amrhein, Plaintiff(s)

VS.

Attorney Lennie F. Bollinger and Wormington Law Firm, Defendant(s)

Appealed to the
Supreme Court of Texas at Austin, Texas, or Court of Appeals for the
5th District of Texas, at Dallas Texas

Attorney for Appellant(s):

Name: Darlene Amrhein, Pro Se
Address: 112 Winsley Circle McKinney TX 75071
Telephone Number: 972-547-0448
Fax Number: N/A
E-Mail Address: winsley112@yahoo.com
State Bar Number: N/A

Location of clerk preparing the clerk's record: County Court at Law - Collin County, Texas

Name of clerk preparing the clerk's record:
Danyelle Turner, Deputy Clerk
July 31, 2018

006-02654-2017
CLERK'S CAPTION

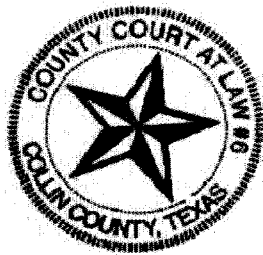
THE STATE OF TEXAS

COUNTY OF COLLIN

At a January term of County Court at Law 6 of Collin County, Texas, which began on the 1st day of January, 2018, which will terminate on the 30 day of June, 2018, the Honorable Jay Bender sitting as Judge of Said Court, the following proceedings were had, to wit;

Darlene C. Amrhein, et al VS. Attorney Lennie F. Bollinger and Worminton & Bollinger Law Firm

Given under my hand and official seal of said Court, at office in the city of McKinney, Texas, on this the 31st day of July, 2018.



ATTEST: STACEY KEMP, COUNTY CLERK

Collin County, Texas

2100 Bloomdale Road, Suite 12165

McKinney, Texas 75071

972-548-6423, METRO 972-424-1460 EXT. 6423

Signed: 7/31/2018 10:53:47 AM

Issued By: *Danyelle Turner*, Deputy
Danyelle Turner

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CASE SUMMARY
CASE SUMMARY
CASE NO. 006-02654-2017

**Darlene C. Amrhein, et al VS. Attorney Lennie F.
Bollinger and Worminton & Bollinger Law Firm**

§
§
§
§
§
§

Location: **County Court at Law 6**
Judicial Officer: **Bender, Jay**
Filed on: **10/26/2017**
Case Number History: **005-02654-2017**
002-02654-2017

CASE INFORMATION

Statistical Closures

05/14/2018 All Other Dispositions

Case Type: **Injury or Damage - Other
Professional Malpractice**

Case Status: **05/15/2018 Case on Appeal**

Case Flags: **Notice of Appeal**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number 006-02654-2017
Court County Court at Law 6
Date Assigned 02/15/2018
Judicial Officer Bender, Jay

PARTY INFORMATION

Plaintiff

Amrhein, Darlene

Lead Attorneys

Pro Se

972-547-0448(II)

Balistreri (Deceased), Anthony

Pro Se

Defendant

All Professional Liability & Legal Malpractice Insurance Companies

Pro Se

Bollinger, Lennie F.

Phaneuf, Carrie J.

Retained

214-220-5220(W)

Wormington Law Firm

Phaneuf, Carrie J.

Retained

214-220-5220(W)


DATE

EVENTS & ORDERS OF THE COURT


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EVENTS


10/26/2017

 Petition for Injury Damage - Pro. Malpractice (OCA) \$292.00
Party: Plaintiff Amrhein, Darlene


10/26/2017

 Case Information Sheet - Cover Letter by OCA


10/26/2017

 Affidavit of Inability to Pay
Plaintiff's Motion for Permission to Appeal in Forma Pauperis for Filed Notice of Appeal and Docket Statement












10/26/2017

 Affidavit of Indigency Flow Sheet Granted













10/26/2017

 Request for Citation Pre Judgment - \$4.00

CASE SUMMARY
CASE SUMMARY
CASE NO. 006-02654-2017












	Party: Plaintiff Amrhein, Darlene
10/26/2017	 Request for Citation Pre Judgment - \$4.00 Party: Plaintiff Amrhein, Darlene
10/26/2017	Constable PCT #1 - Service Fee - \$75.00 Party: Plaintiff Amrhein, Darlene
10/26/2017	Constable PCT #1 - Service Fee - \$75.00 Party: Plaintiff Amrhein, Darlene
10/27/2017	 Issued <i>Q'd to Pct 1 w/Petition</i> Party: Defendant Bollinger, Lennie F.
10/27/2017	 Issued <i>Q'd to Pct 1 w/Petition</i> Party: Defendant Wormington Law Firm
11/02/2017	 Affidavit of Service <i>Wormington Law Firm srvd 11/1/2017-Pct 1-In County Service</i>
11/06/2017	 Affidavit of Service <i>Lennie F Bollinger srvd 11/3/17-Pct 1-In County Service</i>
11/15/2017	 Original Answer
11/27/2017	 Motion <i>Plaintiff's Motion for Leave from this court to File Plaintiff's Amended & Supplement Petition and Pleadings for "Good Cause" Reasons</i>
11/27/2017	 Amended Petition <i>Plaintiff's Amended & Supplement Petition and Pleadings</i>
11/27/2017	 Motion <i>Plaintiff's Motion to Recuse Judge Walker and Court</i>
11/27/2017	Clerk Notes <i>Per Plaintiff's Amended & Supplement Petition and Pleadings All Professional Liability & Legal Malpractice Insurance Companies are being removed</i>
11/29/2017	Court Administrator's Comments <i>Notice of pre-trial mailed of 1/18/18</i>
12/04/2017	 Order <i>transferring case to Court 5</i>
12/04/2017	 Mailed Party: Plaintiff Amrhein, Darlene
12/04/2017	E-Mail Party: Attorney Phaneuf, Carrie J.
12/22/2017	 Motion to Dismiss <i>Defendants Lennie F. Bollinger and Wormington & Bollinger's Rule 91a Motion to Dismiss</i>
12/22/2017	Clerk Notes <i>no order</i>

CASE SUMMARY
CASE SUMMARY
CASE NO. 006-02654-2017

01/02/2018	 Plaintiff's <i>Plaintiff's Specific Facts Plead, Objections, Response & Right to Relief as Sought in This Lawsuit Against Defendants & Their Motion to Dismiss Under Rule 91a of The Texas Rules of Civil Procedure for "Good Cause" Reasons</i>
01/03/2018	 Notice of Hearing <i>1-25-18</i>
01/03/2018	 Motion for Continuance <i>for "Good Cause" Reasons to respond to Defendant's Motion to Dismiss</i> Party: Plaintiff Amrhein, Darlene
01/03/2018	Clerk Notes <i>mailed to Judge Wilson/ Admin sent to CCAI.</i>
01/03/2018	 Mailed <i>copy of motion for continuance/ plt furnished copy to filemark</i> Party: Plaintiff Amrhein, Darlene
01/03/2018	 Amended Answer
01/05/2018	 Attorney Vacation Letter <i>Carrie Phaneuf</i>
01/16/2018	 Notice <i>Plt. Notice to the court, said Judges, all Defendants and their counsels to stay & continue this lawsuit removing it off the active docket sheets for "Good Cause" reasons</i>
01/16/2018	Mailed <i>filemarked copy provided</i> Party: Plaintiff Amrhein, Darlene
01/16/2018	Clerk Notes <i>mail came from Judge's office</i>
01/16/2018	 Response - Defendant's <i>in Opposition to Pl's Notice to the Court, Said Judges, to All Defendants and Their Counsels to Stay & Continue This Lawsuit Removing it off the Active Docket Sheets for 'Good Cause' Reasons</i>
01/16/2018	 Response - Defendant's <i>in Opposition to Pl's Notice to the Court, Said Judges, to All Defendants and Their Counsels to Stay & Continue This Lawsuit Removing it off the Active Docket Sheets for 'Good Cause' Reasons</i>
01/17/2018	 Order Denied <i>order denying "Plaintiff's notice to the court, said Judges, to all Defendants and their counsels to stay & continue this lawsuit removing it off the active Docket Sheets for Good Cause Reason" signed by Judge Wilson</i>
01/17/2018	E-Mail Party: Attorney Phaneuf, Carrie J.
01/17/2018	 Mailed Party: Plaintiff Amrhein, Darlene
01/18/2018	 Affidavit











CASE SUMMARY
CASE SUMMARY
CASE NO. 006-02654-2017

Of Carrie Johnson Phaneuf on Attorneys Fees and Cost in Support of Defendants Rule 91A Motion to Dismiss









01/19/2018	 Reply <i>Defendants' Reply to Plaintiff's Response to Defendants' Motion to Dismiss Under Rule 91a of the Texas Rules of Civil Procedure</i>
01/19/2018	 Supplement <i>Plt.new adnd additional supplements for submission to consider Def. moton to dismiss this lawsuit</i>
01/19/2018	Mailed <i>copy included</i> Party: Plaintiff Amrhein, Darlene
01/19/2018	Clerk Notes <i>mail came to Judges office</i>
01/22/2018	 Motion <i>Plaintiff's Waiving Client-Attorney Privilege, so No Exceptions with Attorney Lennie Bollinger, Wormington & Bollinger Law Firm, Some Important New Court Filings & Communications Representing Violations of Laws & Facts to Additional Amend Pleadings in this Lawsuit for Submission, Stated Claims & Arguments with Exhibits</i>
01/23/2018	 Response - Defendant's <i>Defendants' Further Reply to Plaintiff's Supplemental Filings in Response to Defendants' Motion to Dismiss Under Rule 91A of the Texas Rules of Civil Procedure</i>
01/30/2018	 Order Granted <i>Order Granting Defendants Rule 91A Motion to Dismiss signed by Judge Wilson</i>
01/30/2018	Mailed Party: Attorney Phaneuf, Carrie J.; Plaintiff Amrhein, Darlene
01/30/2018	E-Mail Party: Attorney Phaneuf, Carrie J.
02/06/2018	 Correspondence <i>From D Amrhein copy of priority mail envelope</i>
02/06/2018	 Motion <i>Plaintiff's 2nd Motion for Stay & Continuance of this Lawsuit for "Good Cause" reasons</i>
02/06/2018	 Response - Plaintiff's <i>to January 30, 2018 Order on Motion to Dismiss Portions of this Lawsuit that is Challenged by Motion for Reconsideration for "Good Cause" reasons</i>
02/06/2018	Mailed <i>1 copy of motion and 2 copies of response/copies provided by Plt - in a sase</i> Party: Plaintiff Amrhein, Darlene
02/09/2018	 Motion <i>Defendants Motion for an Order Determing Plaintiff Darlene Amrhein to Be a Vexatious Litigant and Requesting Security(Exhibits A to G-2)</i>
02/09/2018	 Exhibit <i>H-1, H-2, and 1</i>
02/12/2018	 Supplement

CASE SUMMARY
CASE SUMMARY
CASE NO. 006-02654-2017

Defendants' Supplement to Their Motion for an Order Determining Plaintiff Darlene Amrhein to Be A Vexatious Litigant and Requesting Security








02/12/2018	 Notice of Hearing <i>2/20/18 Notice of Hearing for Defendants Motion for an Order Determining Plaintiff Darlene Amrhein to Be A Vexatious Litigant and Requesting Security</i>
02/13/2018	 Motion <i>Plaintiff's Motion for Recusal of Judge Dan Wilson</i>
02/13/2018	Mailed <i>file stamped copy of motion provided by the Plt, in sase</i> Party: Plaintiff Amrhein, Darlene
02/13/2018	Clerk Notes <i>mailed to Judge office</i>
02/13/2018	 Order <i>Order of Referral On Motion to Recuse signed by Judge Wilson</i>
02/13/2018	E-Mail Party: Attorney Phaneuf, Carrie J.; Plaintiff Amrhein, Darlene
02/13/2018	 Mailed Party: Plaintiff Amrhein, Darlene
02/13/2018	 Plaintiff's <i>Timely notices and Various Objections on Unlawful & Illegal Activities in the Lawsuit for "Good Cause" reasons</i> Party: Plaintiff Amrhein, Darlene
02/13/2018	 Amended <i>Plaintiff's Timely First Amended Pleadings & 15 Notices</i>
02/13/2018	Mailed <i>both filings mailed into Judge office copies provided by Plt,- in sase</i> Party: Plaintiff Amrhein, Darlene
02/13/2018	Mailed <i>both filings mailed to Judges office/ copies provided by Plt. in sase</i> Party: Plaintiff Amrhein, Darlene
02/14/2018	 Order <i>Amended Order of Referral on Motion to Recuse. signed by judge</i>
02/14/2018	E-Mail Party: Attorney Phaneuf, Carrie J.; Plaintiff Amrhein, Darlene
02/14/2018	 Mailed Party: Plaintiff Amrhein, Darlene
02/14/2018	 Notice of Hearing <i>First Amended for Defendant's Motion for Vexatious Litigant</i>
02/15/2018	 Order <i>Transferring case to Court 6</i>
02/15/2018	E-Mail Party: Attorney Phaneuf, Carrie J.; Plaintiff Amrhein, Darlene

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02/15/2018	 Mailed Party: Plaintiff Amrhein, Darlene
02/15/2018	 Notice <i>Plaintiff's Notice to This Court for Important Information</i>
02/15/2018	 Affidavit <i>Affidavit of Darlene Amrhein</i>
02/15/2018	 Objection <i>Plaintiff's Objections & Responses to Defendants' Motion for an Order Determining Plaintiff Darlene Amrhein to be a Vexatious Litigant and Requesting Security</i>
02/16/2018	 Order <i>The State of Texas First Administrative Judicial Region Order of Assignment by the Presiding Judge</i>
02/16/2018	E-Mail Party: Attorney Phaneuf, Carrie J.; Plaintiff Amrhein, Darlene
02/16/2018	 Mailed Party: Plaintiff Amrhein, Darlene
02/16/2018	 Order <i>Order Staying Case Until March 5, 2018</i>
02/16/2018	E-Mail Party: Attorney Phaneuf, Carrie J.; Plaintiff Amrhein, Darlene
02/16/2018	Mailed Party: Plaintiff Amrhein, Darlene
02/21/2018	 Objection <i>Plaintiff's Notice & Objections in the Transfer to This Court & Scheduled Court Hearing on Feb 23, 2018 for the Following "Good Cause" Reasons</i>
02/21/2018	 Mailed <i>furnished copy of objection mailed back to plaintiff</i> Party: Plaintiff Amrhein, Darlene
02/22/2018	E-Mail Party: Defendant Bollinger, Lennie F.
03/02/2018	 Order <i>Order Lifting Stay and Terminating Assignment of Senior Justice Mary Murphy</i>
03/02/2018	E-Mail Party: Attorney Phaneuf, Carrie J.; Plaintiff Amrhein, Darlene
03/02/2018	 Mailed Party: Plaintiff Amrhein, Darlene
03/06/2018	 Correspondence/Fax/Email from Court Administrator <i>Re Hearing on Plaintiff's 2nd Motion for Stay & Continuance 3/9/18 @ 1:30 pm mailed to all parties by crt coor on 3/5/18</i>
03/07/2018	 Response - Defendant's













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Defendants' Response In Opposition to Plaintiff's Motion for Continuance ("Updated Medical Information for 'No Work' In Preparation for Surgery Due to My Health Condition & ADA Federal Law as Required)














03/08/2018	 Plaintiff's <i>Updated Medical Information for "No Work" in Preparation for Surgery Due to My Health Condition & ADA Federal Law as Required & Objections</i>
03/08/2018	 Plaintiff's <i>Updated Medical Information for "No Work" in Preparation for Surgery Due to My Health Condition & ADA Federal Law as Required</i>
03/08/2018	Mailed <i>back a file marked copy to Plaintiff in SASE (copy furnished by plaintiff)</i>
03/08/2018	Mailed <i>back a file marked copy in SASL (copy furnished by plaintiff)</i>
03/09/2018	Judge's Docket Entry <i>Plaintiff failed to appear although duly noticed by the court to appear regarding her motion for continuance. The defendant appeared with counsel. The court called Dr. Arakal in an attempt to get more information at 972-608-5000 as the Court was invited to do so as stated in Exhibit A of the Plaintiff Motion for Continuance. The Court is taking the Motion for Continuance under advisement until further notice.</i>
03/12/2018	 Plaintiff's <i>Updated Medical Information, Demand for Continuance & Stay to Stop All Harassments & Violations of Americans with Disabilities Act, ADA Texas & Federal Laws for "Good Cause" Reasons & Objections</i>
03/12/2018	Mailed <i>back a file marked copy to plaintiff in SASE (copy furnished by plaintiff)</i>
03/20/2018	 Request <i>Defendants Request for Hearing on Motion for an Order Determining that Plaintiff Amrhein is a Vexatious Litigant</i>
03/21/2018	Judge's Docket Entry <i>Court has not heard back from Dr. Arakal. Court called Dr. Arakal and left a message with Nichelle, Dr. Arakal's surgery scheduler to inquire about surgery schedule for Ms. Amrhein.</i>
03/21/2018	Judge's Docket Entry <i>Dr's Office called and Court was able to verify date of 4/26/2018.</i>
03/21/2018	Judge's Docket Entry <i>Plaintiff's Motion for Continuance is DENIED. The Plaintiff failed to appear at the Motion for Continuance Hearing and the Court took it under advisement. However, the Plaintiff did appear and filed more documents with the Court on 3/12/2018 so it is apparent that the Plaintiff can make physical court appearances. The Motion for Continuance is therefore DENIED and a hearing on the Motion to Declare Plaintiff a Vexatious Litigant is to be scheduled. The Court will make allowances for the Plaintiff to accommodate her physical requirements.</i>
03/21/2018	 Notice of Hearing <i>Second Amended Notice of Hearing on Defendants Motion for an Order Determining Plaintiff Darlene Amrhein to be a Vexatious Litigant and Requesting Security</i>
03/22/2018	 Correspondence/Fax/Email from Court Administrator <i>re Hearing on Motion regarding whether a Vexatious Litigant</i>
03/26/2018	 Reply <i>Defendants Reply to Plaintiffs Response and Second Supplement to Their Motion for an Order</i>

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Determining Plaintiff Darlene Amrhein to be a Vexatious Litigant and Requesting Security
Party: Defendant Wormington Law Firm; Defendant Bollinger, Lennie F.

















03/26/2018	 Motion to Quash <i>Plaintiff's Motion to Quash All Written Intentions of Production of Documents from Notary Public & Texas Back Institute for "Good Cause" Reasons and Plaintiff's Motion for Sanctions Against Defendants, et al & Their Attorneys of Record for "Good Cause" Reasons "Objections"</i>
03/28/2018	 Response - Plaintiff's <i>Plaintiff's Responses & Objections to Defendant's Reply to Plaintiff's Response and Second Supplement to Their Motion for an Order Determining plaintiff Darlene Amrhein "To be a Vexatious Litigant and Requesting Security (Plaintiff's Second Supplement)</i>
03/29/2018	 Amended <i>Defendants' Amended First Supplement to Their Motion for an Order Determining Plaintiff Darlene Amrhein To Be A Vexatious Litigant and Requesting Security</i>
04/02/2018	 Response - Plaintiff's <i>(Revised) Plaintiff's Responses & Objections to Defendants' Reply to Plaintiff's Response and Second Supplement to their Motion for an Order Determining Plaintiff Darlene Amrhein "to Be a Vexatious Litigant and Requesting Security (Plaintiff's Second Supplement Revised)</i>
04/02/2018	 Response - Plaintiff's <i>Plaintiff's Timely Responses & Objections to Show Cause Order, Email Demands Made by Texas & Federal Courts to Destroy these 2 Lawsuits Against Plaintiff, as a Disabled Person in Violations of ADA, by Collusion Against Rule of Law as Discriminations, Bias, Prejudice & Retaliation, Following Cease & Desist Demand Letters, Hearings & Motion for Recusal as Certified, Sent & Filed</i>
04/02/2018	 Affidavit <i>Plaintiff's Sworn Affidavit</i>
04/02/2018	 Motion <i>Plaintiff's Motion to Recuse Judge Jay Bender for "Good Cause" Reasons</i>
04/03/2018	 Response - Defendant's <i>Defendant's Response to Plaintiff's Tertiary (Third) Motion to Recuse in this Case</i>
04/04/2018	 Response - Plaintiff's <i>Plaintiff's Objections & Responses on Defendants' Response to Plaintiff's Tertiary (Third) Motion to Recuse in This Case</i>
04/05/2018	 Order <i>on Motion to Recuse</i>
04/05/2018	E-Mail Party: Attorney Phaneuf, Carrie J.; Plaintiff Amrhein, Darlene
04/05/2018	 Mailed Party: Plaintiff Amrhein, Darlene
04/05/2018	 Order <i>Declaring Darlene C. Amrhein a Vexatious Litigant, Requiring Security, and Issuing A Prefiling Order Against Darlene C. Amrhein signed by judge</i>
04/05/2018	E-Mail Party: Attorney Phaneuf, Carrie J.; Plaintiff Amrhein, Darlene

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04/05/2018	 Mailed Party: Plaintiff Amrhein, Darlene
04/06/2018	 Attorney Correspondence <i>Letter to Plaintiff enclosing Order Declaring Darlene C. Amrhein a Vexatious Litigant (No Color Copy per Court Instruction)</i>
04/06/2018	E-Mail <i>Order to: Office of Court Administration @JudInfo@txcourts.gov</i>
04/23/2018	 Notice <i>from US Dist Crt for Eastern Dist regarding Plaintiff's Notice of False Vexatious Litigant Order</i>
04/23/2018	 Order Denied <i>for Plaintiff's "Motion to Recuse the US East Dist Crt of Texas Judge Christine A. Nowak for 'Good Cause' Reasons as Required" denied. Signed by US Magistrate Judge</i>
05/02/2018	 Objection <i>Plaintiff's Objection to Judge Jay Bender Presiding Over this Lawsuit for Additional "Good Cause" Reasons & Other Serious Issues</i>
05/07/2018	 Amended <i>Order on Motion to Recuse signed by Judge Ray Wheless</i>
05/08/2018	 Attorney Correspondence <i>Cover Letter - Proposed Order Granting Dismissal</i>
05/10/2018	 Affidavit <i>Plaintiff, Darlene C. Balistreri-Amrhein Sworn Affidavit</i>
05/10/2018	 Motion for Sanctions <i>Plaintiff's Motions to Charge Sanctions Against Defendants, Attorneys & Law Firms, Reverse False Vexatious Litigant Order, Refuse Dismissal of This Lawsuit & Add & Serve Process to All New Defendants for "Good Cause" Reasons & Grant Medical Stay & Objections</i>
05/10/2018	E-Mail <i>with the Affidavit filed 05.10.2018 due to documents being secured</i> Party: Attorney Phaneuf, Carrie J.
05/14/2018	E-Mail Party: Attorney Phaneuf, Carrie J.; Plaintiff Amrhein, Darlene
05/14/2018	 Mailed Party: Plaintiff Amrhein, Darlene
05/15/2018	 Request <i>for issuances</i>
05/15/2018	 Request <i>Plaintiff's Request For All Filed Court Records, All Videos & All Transcripts From All Hearings In This Lawsuit For Timely Appellate Briefing As Required</i>
05/15/2018	 Notice of Appeal Filed <i>Plaintiff's Notice of Appeal and Docket Statements</i>
05/15/2018	Court Administrator's Comments <i>Citations requested by plaintiff do not have to be issued by clerk because case was dismissed</i>


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and is now on appeal. per Judge Bender/sa


05/16/2018	 Findings of Fact and Conclusions of Law <i>Plaintiff's Request Finding of Facts & Conclusion of Law in May 14, 2018 Court Order as Missing & Required</i>
05/16/2018	 Court of Appeals Letter <i>Notifying COA of appeal filed. Letter, Order of Dismissal and Notice of Appeal submitted.</i>
05/16/2018	 5th Court of Appeals - Confirmation Page
05/16/2018	 Response - Defendant's <i>Response in Opposition to Plaintiff's Request for Findings of Fact and Conclusions of Law</i>
05/17/2018	 5th Court of Appeals - Correspondence <i>Notifying all parties of COA case number, #05-18-00567-CV</i>
05/17/2018	 Court of Appeals Letter <i>w/Findings of Facts attached to properly calculate due date of clerk's record</i>
05/17/2018	 5th Court of Appeals - Confirmation Page
05/17/2018	 Letter to Appellant <i>for appeal fee - \$2195.00</i>
05/17/2018	E-Mail Party: Plaintiff Amrhein, Darlene
05/17/2018	 Mailed Party: Plaintiff Amrhein, Darlene
05/18/2018	E-Mail <i>4/23/18 Order Denied and 5/7/18 Amended Order</i> Party: Attorney Phaneuf, Carrie J.; Plaintiff Amrhein, Darlene
05/21/2018	 Affidavit of Inability to Pay <i>Plaintiff's Notice of Sensitive Data for Court Records Fees to Be Sealed</i>
05/21/2018	 Response - Plaintiff's <i>Plaintiff's Responses & Objections to Def's Objection to Plaintiff's Request Finding of Facts & Conclusion of Law for May 14, 2018 Court Order as Missing & Required for "Good Cause" Reasons</i>
05/31/2018	 5th Court of Appeals - Correspondence <i>Notification of original proceeding filed (writ of Mandamus, 05-18-00633-cv)</i>
06/12/2018	 5th Court of Appeals - Correspondence <i>Regarding the opinion (05-18-00633-cv writ of mandamus)</i>
06/12/2018	 5th Court of Appeals Opinion <i>Memorandum Opinion (05-18-00633-cv writ of mandamus)</i>
06/12/2018	 5th Court of Appeals - Correspondence <i>regarding Order (05-18-00633-cv writ of mandamus)</i>
06/12/2018	 5th Court of Appeals - Order

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Denied Writ of Mandamus (05-18-00633-cv and 05-18-00634-cv)


07/30/2018  **Contest of Affidavit of Indigence - On Appeal**
*Court Reporter's Contest to Plaintiff Darlene C. Amrhein's "Statement of Inability to Afford
opayment of Court Costs or an Appeal Bond" Filed with County Court At Law No. 6*

DISPOSITIONS

05/14/2018  **Dismissed** (Judicial Officer: Bender, Jay)
Comment (Order Granting dismissal With Prejudice and Prohibiting New Litigation by Plaintiff
Without Judicial Approval)

HEARINGS

01/18/2018  **CANCELED Pre-Trial Conference** (1:30 PM) (Judicial Officer: Walker, Barnett)
Court

01/18/2018  **CANCELED Pre-Trial Conference** (1:30 PM) (Judicial Officer: Wilson, Dan K)
Continued

01/25/2018 **CANCELED Motion to Dismiss** (1:30 PM) (Judicial Officer: Wilson, Dan K)
Continued

01/25/2018 **CANCELED Motion to Dismiss** (1:30 PM) (Judicial Officer: Wilson, Dan K)
Continued

02/01/2018 **CANCELED Motion to Dismiss** (1:30 PM) (Judicial Officer: Wilson, Dan K)
Continued

02/20/2018 **CANCELED Pre-Trial Conference** (1:30 PM) (Judicial Officer: Wilson, Dan K)
Transferred to Another Court

02/20/2018 **CANCELED Motion to Dismiss** (1:30 PM) (Judicial Officer: Wilson, Dan K)
Court

02/20/2018 **CANCELED Motion Hearing** (1:30 PM) (Judicial Officer: Wilson, Dan K)
*to Declare Darlene Amrhein a Vexatious Litigant
Transferred to Another Court*

02/23/2018 **CANCELED Motion Hearing** (1:30 PM) (Judicial Officer: Bender, Jay)
*For Defendant's Motion for An Order Determining Plaintiff Darlene Amrhein To Be A
Vexatious Litigant and Requesting Security. Set via email with defendant attorney office on
2/15/18. Defendant atty office has sent out notices to all parties. SA
Order Signed*

03/09/2018 **CANCELED Motion for Continuance** (1:30 PM) (Judicial Officer: Bender, Jay)
*Plaintiff's Second Motion for Stay and Continuance of this Lawsuit for "Good Cause" Reasons.
Notices mailed to all parties on 3/5/18. SA
Per Judge*

04/05/2018 **CANCELED Motion Hearing** (1:30 PM) (Judicial Officer: Bender, Jay)
*Notices mailed to all parties on 3/21/18. SA
Hearing Held*

05/07/2018 **Status** (8:30 AM) (Judicial Officer: Bender, Jay)
Per order signed on 4/5/18. SA

SERVICE

10/27/2017 **Citation**
Bollinger, Lennie F.
Issued

10/27/2017 **Citation**

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	Wormington Law Firm Issued	
11/01/2017	Citation Wormington Law Firm	served
11/03/2017	Citation Bollinger, Lennie F.	served

DATE	FINANCIAL INFORMATION	
	Plaintiff Amrhein, Darlene	
	Total Charges	450.00
	Total Payments and Credits	0.00
	Balance Due as of 7/30/2018	450.00

Original

CAUSE NO. 002-02654-2017

DARLENE AMRHEIN, et al
Plaintiffs

COUNTY COURT AT LAW

V.

ATTORNEY LENNIE F. BOLLINGER, et al;
WORMINTON & BOLLINGER LAW FIRM, et al;
AND
ALL PROFESSIONAL LIABILITY & LEGAL
MALPRACTICE INSURANCE COMPANIES

COLLIN COUNTY, TEXAS

FILED
COUNTY COURT AT LAW
2017 OCT 26 PM 1:51
STACEY KEMP
COUNTY CLERK
COLLIN COUNTY, TEXAS
BY: *M. McGehee*
PROTESTANT

PLAINTIFFS' ORIGINAL PETITION AND REQUEST FOR DISCOVERY

COMES NOW, Plaintiff Darlene Amrhein and Representative for (Deceased) Anthony Balistreri, hereafter referred to as Plaintiff & Plaintiffs complaining of Wormington Law Firm, & Attorney Lennie Bollinger, et al, hereafter referred to as "Defendant & Defendants;"

I. DISCOVERY CONTROL PLAN

Plaintiff requests that this cause be governed by a discovery control plan whereby discovery is conducted under Level 3.

II. PARTIES

Wormington Law Firm, et al, 212 East Virginia Street, McKinney, TX. 75069 and Attorney Lennie F. Bollinger, et al, 212 East Virginia Street, McKinney, TX. 75069 Darlene Amrhein, et al., 112 Winsley Circle, McKinney, TX. 75071

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III. FACTS

Following are some facts in 2 legal Representations / Lawsuits that make basis of this above filed lawsuit against Wormington & Bollinger Law Firm, et al & Attorney Lennie F. Bollinger, et al for “good cause” reasons that created multiple errors, hidden facts, frauds, violated Code of Professional Responsibility, “bad faith” intent, violated Texas Laws, Rules of Civil Procedure & or Malpractice as stated by Plaintiff that will be proven in specific lawsuit & representations against Wormington & Attorney Lennie F. Bollinger, et al & their Insurance Companies;

MISHANDLING OF LAWSUIT # 1 – DAVID ALLEN SCHROEDER

- 1) Defendant David Schroeder moved into Plaintiff’s residence located at 112 Winsley Circle, McKinney, TX. 75071 in October, 2014.
- 2) Defendant agreed to pay Plaintiff the sum of \$200.00 per month, from month to month for rent, utilities, and other miscellaneous expenses under represented certain represented conditions.
- 3) Defendant failed to pay the agreed upon \$200.00 per month from October, 2014 to March 10, 2015, misrepresented himself to get into Plaintiff’s home;
- 4) Defendant misrepresented himself & defrauded Plaintiff as to his life, person, habits & past history to prevent Plaintiff in making an “informed decision” as to enter into this implied & expressed agreement;
- 5) Plaintiff discovered Defendant’s Mug Shot & when confronted he continued to make false statements & misrepresent all the facts to Plaintiff;
- 6) Defendant was on anti-anxiety medication for a mental disorder
- 7) Defendant assaulted Plaintiff early in fall 2014 & false misrepresented himself;
- 8) Defendant paid for nothing from October, 2014 to March 10, 2015 in form of rents, expenses & walked out on March 10, 2015, after damaging Plaintiff’s home,

property for revenge for claiming “ we should date other people;”

9) Defendant followed up with harassment by telephone, fax, email at different times of night & day against Plaintiff;

10) Defendant used a false name representation to send certified mail to Plaintiff; Defendant as non-drinker drank approximately a bottle of wine at night at Plaintiff's expense & paid for no wine from October, 2014 to March 10, 2015;

11) On December 11, 2014 Defendant drove in a reckless manner with Plaintiff in her automobile, causing, fear, then drank multiple glasses of wine, got into this same automobile with Plaintiff & drove drunk aggressively, with anger, speeding & continued all the way to this home, 112 Winsley Circle following his DUI, DWI, 6 months in jail & 24 months in probation with a record as repeat offender, which was unknown to Plaintiff;

12) Plaintiff believed the Justice Court / Small Claims Court would take care of all Defendant's violations of laws, but was informed by Judge Raleeh that he does not deal with any crimes & these losses exceeded his jurisdictional limits;

13) Plaintiff filed a Notice of Appeal & Docket Statement in Judge Raleeh's Court that was originally filed by Attorney Lenny Bollinger & Wormington Law Firm, who withdrew in this case, liable & sued for his actions during this lawsuit that caused further harm & losses to Plaintiff;

14) Defendant represented himself as a non-smoker, that smoked a pack of smokes or more from day to day, causing injuries to Plaintiff;

15) Defendant engaged in frauds & lies from October, 2014 to March 10, 2014 & beyond to last hearing on October 13, 2017, when he committed perjury in court;

16) Defendant had an undisclosed police record, 6 months jail time, 2 year probation period that ended November, 2013, which he falsely claimed as still

active in November, 2014 to March 10, 2015 to manipulate & control Plaintiff;

17) Defendant tried to manipulate, intimidate & control Plaintiff from June 11, 2014 to March 10, 2015 & beyond to court proceedings Oct. 13, 2017 in court;

18) Defendant engaged in threatening words, acts, moods, tempers & physically throwing things at home, garage & yard;

19) Defendant slandered Plaintiff's name & reputation with others from Police to friends by false posts & false reports;

20) Defendant engaged in removing items from Plaintiff's home without permission, keeping those things, refusing to return all items upon last "demand letter" notice at various given addresses from February 15, 2016 to the present;

21) Defendant filed false Police Reports against Plaintiff to establish a defense for all of his violations of laws to distort the facts of him trying to victimize Plaintiff as he had done to other women for his own financial gain & revenges;

22) Defendant was sued by Plaintiff in Justice / Small Claims Court as of May, 2016 to the present October 18, 2017 for returns & cost of her property, all damages done to her property, all actions for all things done to Plaintiff Amrhein at approximately \$ 9, 975.00 as listed below;

23) Plaintiff's losses exceeding the jurisdictional limits of her filed lawsuit this case was dismissed on October 18, 2017 & now to be moved to the County Court at Law by Plaintiff Notice of Appeal on October 23, 2017;

24) Plaintiff has not caused delay in "due process" of this lawsuit, Cause No. 01-SC-16-00165, but due to her attorneys, Attorney Lennie Bolinger & Wormington Law Firm's errors, misconduct, breach of Code of Professional Responsibility & Conduct, "good cause" reasons & Malpractice as complained of in Justice / Small Claims Court filing that was not read until a few minutes before pre-trial

conference on October 13, 2017 at which time Defendant Schroeder committed "perjury," while under his sworn oath;

25) Attorney Bollinger for months answered no calls, no e-mails, communicated very little, refused all directions & additions to this lawsuit & wanted Plaintiff to settle this lawsuit for \$200.00 on a \$9,975.00 claim with no items, no repaired property, no settlement & no reporting of anything. including this assault;

26) Attorney Bollinger only reported "conversion of property" & refused all other Plaintiff claims to be filed & gave no explanations to Plaintiff;

27) Attorney Bollinger appeared to be working for defendant with favors & delays against Plaintiff Amrhein, when he withdrew from the lawsuit, which was documented for the Justice Court / Small Claims Court, who hears no crimes;

28) Not all Plaintiff's client filed was returned & had to be demanded just days before jury trial date that did not occur, due to evaluation & no crimes, which was never disclosed to Plaintiff as filed in the "wrong court," causing Plaintiff damages, harms & further losses by frauds, omissions, concealment, delays & cover up, conspiracy, breach of fiduciary duty, etc.;

29) Attorney Bollinger & Wormington Law Firm, et al never followed through any discovery in this case as stated in Level One Control Plan, request one admission from Schroeder & never followed through from May, 2016 to withdrawal about May 12, 2017

30) Listed Damages in this lawsuit that Defendants refused to add in Cause No. Cause No. 01-SC-16-00165 are as follows:

Rent.....	\$1,000.00
Certified Mail.....	\$ 90.00
Wine Bill.....	\$600.00

Utilities x 5 Water, Electric, Gas, Heat	\$1,150.00
Cash.....	\$ 200.00
His Concert Ticket.....	\$100.00
Shower Repairs & Floor Damage.....	\$ 400.00
Burned Rug.....	\$ 95.00
Meal Tickets.....	\$60.00
Movie Ticket & Dinner.....	\$42.00
Sofa Table & Furniture Damages.....	\$200.00
Sun Glasses	\$140.00
Parking & Wine	\$40.00
Silver Cross & Chain.....	\$60.00
Go Bible & Case.....	\$60.00
Picture Frame.....	\$10.00
Pictures.....	\$500.00
Sweat Suit.....	\$30.00
Blue Lunch Bag.....	\$ 20.00
Blue Thermos.....	\$ 25.00
Grandchildren Christmas.....	\$ 100.00
3 Shirts.....	\$120.00
3 Ties.....	\$90.00
St Jude Medal.....	\$40.00
Nicoderm Returned.....	\$ 28.00
Damaged Winter Jacket.....	\$28.00
Extra Security Locks.....	\$95.00
Emotional Distress.....	\$1,750.00 to \$2,000.00
Fear.....	\$2,000.00 to \$5,000.00

Counseling & Medical Treatments, Medications.....	\$2,000.00
Time for Lawsuit & Supplies.....	\$300.00
Damage to Front of House & Garage Door.....	\$100.00
Damages to Reputation.....	\$1,000.00
Damage to Credit.....	\$1,000.00
Tax Penalties.....	\$ 72.00
Loss of Time.....	\$ 2,000.00
Specialty Requested Foods.....	\$38.00
Wi fi.....	\$75.00
Gasoline.....	\$100.00
Certified Court Records.....	\$25.00
Future Medical Bills.....	unknown as incomplete
Private Investigator Stanul.....	\$1,175.00

Interest on Owed Money for 30 Months at 4% rate - Theft Conversion, etc. until paid in full / settlement by David A. Schroeder, plus Court Costs, Attorney Fees & any other relief to which Plaintiff is entitled as a senior citizen over 65 years;

Total : \$9,975.00 - **Before Trial** \$ 8,500.00

31) Plaintiff reserves right to add additions to the misconduct of Defendants.

2 MISHANDLE LEGAL REPRESENTATION AS IMPLIED / EXPRESS

32) Defendant Attorney Lennie F. Bollinger was to examine all records for Anthony J. Balistreri that was given to him with notice of pending September 24, 2015 "statute of limitations," while falsely claiming he & his Wormington & Bollinger Law Firm, et al only needed 30 days to determine their representation, but kept this case file for 5 months with notice & return about November 25, 2015;

33) Plaintiff Amrhein, as daughter & legal representative, continually called for updates for Defendant Wormington & Bollinger legal representation receiving

excuses, no timely return of messages & calls for months with no discovery;

34) Defendant Attorney F. Bollinger & Wormington Law Firm, et al had all Plaintiff Amrhein's proof, representative list & records, which prevented seeking other legal counsel from about May, 2015 to approximately November 25, 2015;

35) Defendant Attorney Bollinger, as representative of Wormington Law Firm, et al appeared at Plaintiff's home, dumped off her case of records for the "wrongful death" of her Dad, Plaintiff Anthony Balistreri, after these "statute of limitations" expired, while leaving in a hurry for his Thanksgiving vacation & destroying all legal options knowingly for deceased Anthony J. Balistreri by his "bad faith" intent, errors, action, breached of Professional Code of Responsibility for these Texas Licensed Attorneys;

36) Defendant Bollinger claimed that he would file Plaintiff's lawsuit # 1 with Defendant Schroeder, which is referenced above causing more harms, errors, losses, breaches & violations of laws, Rules of Civil Procedure, Violations of Code of Professional Responsibility by these licensed Defendants Attorneys & law firm by Unethical Standards & Legal Malpractice making them legally liable;

Plaintiff reserves the right to add additions to the misconduct of Defendants.

IV. CAUSES OF ACTIONS AGAINST ALL LISTED DEFENDANTS

- 1. Defendants committed Frauds against Plaintiffs in Lawsuit & Representation;**
- 2. Defendants committed various negligent misrepresentations against Plaintiffs;**
- 3. Defendants breached their implied & expressed contract with Plaintiffs;**
- 4. Defendants' act of "bad faith" intent, knowing it would cause Plaintiffs' harm;**
- 5. Defendants misrepresented their experience/ education as Licensed Attorneys;**
- 6. Defendants didn't communicate timely to Plaintiff for suit & legal evaluation;**
- 7. Defendants refused or hid facts of these 2 representations, evaluations & suit;**

8. Defendants did not act in 30 days & caused expired "statute of limitations;"
9. Defendants did not file this lawsuit as represented & in the wrong court;
10. Defendants failed to protect Plaintiffs legal & U.S. Constitutional Rights;
11. Defendants did not file proper documents timely in the proper Court;
12. Defendants did not represent Plaintiffs as expressed, but frauds & negligence;
13. Defendants failed to follow & enforce the Texas Rules of Civil Procedure;
14. Defendants failed to follow Texas Code Rules of Professional Responsibility;
15. Defendants failed to turn over Plaintiffs files, records & property timely;
16. Defendants violated Ethics Rules of the State Bar of Texas;
17. Defendants violated Plaintiffs' Civil Rights against existing laws;
18. Defendants engages in poor communication with Plaintiff Amrhein;
19. Defendants had missing documents from Plaintiff's Schroeder client file;
20. Defendants made clerical errors in Plaintiff's court filing claims not important;
21. Defendants failed to file documents to perfect Plaintiffs' interests against others
22. Defendants failed to follow Plaintiff's instructions several times for months;
23. Defendants refused Plaintiffs' facts in both case & representations;
24. Defendants failed to inform Plaintiff & representative for deceased Balistreri;
25. Defendant did not follow through on Discovery & Admissions against Plaintiff;
26. Defendants engaged in Procrastination in these representations & legal matters;
27. Defendants failed to obtain Plaintiff's consent in both legal representations;
28. Defendants failed to follow up in both representations & cases;
29. Defendants engaged in "conflict of interest" against Plaintiffs;
30. Defendants filed in wrong court causing Plaintiffs' delays & losses for years;
31. Defendants failed to follow Plaintiff's instructions in legal representations;
32. Defendants failure to meet of file before deadlines & subpoena a witness;

33. Defendants failed to file suit before statute of limitations;
34. Defendants failed to return phone calls & messages for months;
35. Defendants fails apply laws correctly to Plaintiffs situations & circumstances;
36. Defendants breached & abused Plaintiff's trust in lawsuit & representations;
37. Defendants breached their fiduciary duty with Plaintiffs & their cases;
38. Defendants failed to act in "good faith with Plaintiffs;
39. Defendants were negligent with Plaintiffs and their legal cases & or lawsuits;
40. Defendants acted wrongfully & by omissions against Plaintiffs;
41. Defendants engaged in improper withdrawal in the lawsuit & destroyed other;
42. Defendants keeping case 5 plus months knowing "statute of limitations," to September then drops it end of November is fraud, etc. & Malpractice;
43. Defendants withdraw knowing errors, breaches, violations, negligence & fraud against Plaintiffs is Malpractice, *Frauds, etc.*, *BBH*
44. In both instances sited Defendants gave or promised to give Plaintiff's legal advice & assistance, creating harms, losses is Malpractice;
45. Defendants established an attorney-client relationship in which Plaintiffs were owed competent and skillful representation as implied from an Defendants / Attorneys' actions in connection with Plaintiffs' actions & or by reasonable belief enough to find an "attorney-client relationship" & includes all their employees;
46. In performing legal services, Defendants did not exercise care, skill, and diligence that commonly exercised by other attorneys in similar conditions & circumstances & Defendants requested no discovery for over one year in lawsuit;
47. If Defendants had not been negligent or otherwise acted wrongfully, Plaintiffs would have been successful in the underlying case;
48. These Defendant attorneys handled this case & pending evaluation case inappropriately due to negligence or intent to harm & cause damages to Plaintiffs;

49. Defendants were not truth with Plaintiff in both cases & lawsuits;
50. Defendants discriminated against Plaintiff by age, gender & disability;
51. Defendants engaged in cover up, conspiracy, obstruction of justice & "fraud Upon Court," while causing injuries & harm to Plaintiff to advantage of Schroeder;
52. Defendants tried to force a ridiculous settlement upon Plaintiffs in both cases;
53. Plaintiff Amrhein in 2 cited cases have "probable cause" against Defendants & their Professional Liability Insurance Company & or Legal Malpractice Insurance Company as well as personal liability to all these employed participants.

V. DAMAGES

Plaintiff alleges that as a direct and proximate result of the conduct and / or acts and / or omissions of the Defendants, et al listed above, Plaintiffs, et al is entitled to recover at least the limits with 50 allegations of improper conduct, frauds, negligence, "obstruction of Justice & "Frauds Upon Courts," etc. Plaintiff Amrhein is entitled to know Defendants Wormington & Bollinger Law Firm & Attorney Lennie F. Bollinger, et al Professional Liability Insurance and or Defendants Legal Malpractice Insurance Company, all policies & policy limits to determine all damages & within the Collin County Court of Law with \$200,000.00 limit:

VI. VENUE

Venue is proper in Collin County, Texas as the events giving rise to this suit occurred in Collin County, Texas.

VII. REQUEST FOR DISCLOSURES

Pursuant to TRCP 194, Defendant, et al herein is requested to disclose, within 50 days of the service of this Petition and request, the information and / or material described in TRCP / Rule 194.2(a) through (k), including all names & addresses of all Liability & or Malpractice Insurance Companies, State Bar Discipline &

Complaints under Defendants Texas Licenses;

VIII. REQUEST FOR ADMISSIONS

Pursuant to Rule 198 of the Texas Rules of Civil Procedure, Plaintiff serves the following Request for Admissions to Defendant, et al. Defendants are requested fully, in writing, and in accordance with Rule 198 of the Texas Rules of Civil Procedure. The admissions requested are to be responded to fifty (50) days after service of this request. The failure to answer within the prescribed period may result in the Admissions being deemed admitted by the aforementioned Court. If you fail to admit a matter upon which Plaintiff(s) later has to prove at her expense, you may have to pay for the costs of such proof if you do not have good cause for admitting the request when such request was served.

ADMISSION NO. 1: Admit Defendants have Professional Liability Insurance or Legal Malpractice Insurance;

ADMISSION NO. 2: Admit Defendants returned Anthony Balistreri case file after the Statute of Limitations expired on or about November 25, to 27, 2015;

ADMISSION NO. 3: Admit Defendants filed Plaintiff Amrhein's lawsuit known as Cause No. 01-SC-16-00165 in the Justice Court / Small Claims Court under conversion of property suggesting a settlement of \$ 200.00 in this case;

ADMISSION NO. 4: Admit Defendants refused to add all facts to Plaintiff's lawsuit known as Cause No. 01-SC-16-00165 against her instructions;

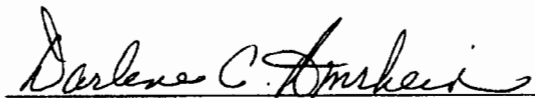
ADMISSION NO. 5: Admit Defendants did not communicate with Plaintiff for long periods of time that did not protect Plaintiff Amrhein's legal interests;

IX. PRAYER

WHEREFORE, Plaintiffs' prays that Defendants be cited to appear and answer, and that on final trial the Court render judgment in favor of Plaintiff, consisting of:

- a. Damages, actual, special and otherwise;
- b. Punitive and / or exemplary damages;
- c. Costs of court;
- d. Both pre-judgment and post-judgment interest of the maximum legal rate;
- e. For such other and further relief both general and special, at law and in equity,
to which Plaintiff, et al may be justly entitled by Judge or Jury Trial.

Respectfully submitted,



Darlene C. Amrhein, Plaintiff, Pro Se &
As Legal Representative for Deceased

Anthony J. Balistreri

10/26/2017

112 Winsley Circle
McKinney, Texas 75071
Unlisted Telephone Number
E-Mail: Winsley112 @yahoo.com

VERIFICATION / AFFIDAVIT

CAUSE NO. _____

STATE OF TEXAS

COUNTY OF COLLIN

BEFORE ME, the undersigned Plaintiff / Appellant Darlene C. Balistreri-Amrhein, who swore in her capacity & individually on her sworn oath, deposed and said she prepared and signed Plaintiffs' Original Petition And Request For Discovery.

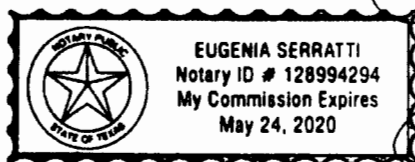
This information as referenced and stated within is true and correct and of Darlene C. Balistreri-Amrhein's own personal knowledge to the best of her ability & as documented. This state and or federal filing is for purpose of "due process," fairness, Justice under State and Federal Laws & presented in applicable Court attached as sited for consideration of this Court filing.

Darlene C. Balistreri-Amrhein

Darlene C. Balistreri-Amrhein, Plaintiff, Pro Se and
representative to Deceased Anthony J. Balistreri

SUBSCRIBED AND SWORN TO ME, BEFORE ME: ON October 25th, 2017 to
certify which witness my hand and official seal.

SEAL:



EUGENIA SERRATTI

Notary Public of Texas (Printed Name)

Eugenia Serratti

Notary Public of Texas (Signature)

Commission Expires May 24, 2020

CERTIFICATE OF SERVICE

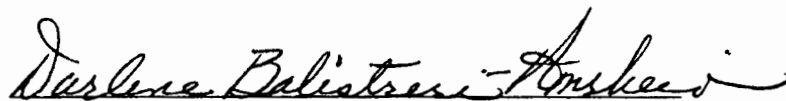
A true and correct copy of Plaintiffs' Original Petition And request For Discovery was served in person or by Certified Mail through the United States Post Office on Oct. 27, 2017 to the following:

Collin County Courthouse & County Court at Law In Person
Collin County District Clerk's Office
2100 Bloomdale Rd.
McKinney, TX 75071

Wormington Law Firm (W & B) Certified # 7017 0530 0000 6415 8414
212 East Virginia Street
McKinney, TX. 75069

Attorney Lennie Bollinger Certified # 7017 0530 0000 6415 8407
212 East Virginia Street
McKinney, TX. 75069

Respectfully submitted,



Darlene Balistreri-Amrhein, Plaintiff, Pro Se and
Representative for Deceased Anthony J. Balistreri

10/26/2017

CIVIL CASE INFORMATION SHEET

CAUSE NUMBER (FOR CLERK USE ONLY): 002-02654-2017 COURT (FOR CLERK USE ONLY): _____

STYLED _____

(e.g. John Smith v. All American Insurance Co.; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet:		Names of parties in case:		Person or entity completing sheet is:	
Name: <u>Darlene Annheim Winsley 1122</u> Address: <u>1122 Winsley Circle</u> City/State/Zip: <u>McKinney, TX 75071</u> Signature: <u>Darlene Annheim</u>		Email: <u>yahoo.com</u> Telephone: <u>972-547-0448</u> Fax: <u>none</u> State Bar No: <u>None</u>		Plaintiff(s)/Petitioner(s): <u>Darlene Annheim</u> Defendant(s)/Respondent(s): <u>Anthony Palistock (Deceased)</u> Attorney: <u>Kennie Ballinger</u> Non-Custodial Parent: <u>None</u> Presumed Father: <u>None</u>	
Person or entity completing sheet is: <input type="checkbox"/> Attorney for Plaintiff/Petitioner <input checked="" type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____		Additional Parties in Child Support Case: _____			
2. Indicate case type, or identify the most important issue in the case (select only 1):					
Civil			Family Law		
Contract <input type="checkbox"/> Debu/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input checked="" type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debu/Contract: _____ Foreclosure <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____	Injury or Damage <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <input type="checkbox"/> Malpractice <input type="checkbox"/> Accounting <input checked="" type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: <input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <input type="checkbox"/> Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____	Real Property <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property Related to Criminal Matters <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other: _____	Marriage Relationship <input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void Divorce <input type="checkbox"/> With Children <input type="checkbox"/> No Children Other Family Law <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____	Post-judgment Actions (non-Title IV-D) <input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other Title IV-D <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocity (UIFSA) <input type="checkbox"/> Support Order Parent-Child Relationship <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____	
Employment <input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: _____		Other Civil <input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property <input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____		Probate & Mental Health <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____	
Tax <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax: _____		Probate & Mental Health <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____			
3. Indicate procedure or remedy, if applicable (may select more than 1):					
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment		<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover	
4. Indicate damages sought (do not select if it is a family law case):					
<input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input checked="" type="checkbox"/> Over \$100,000 but not more than \$200,000 <input type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000					

Rev 2/13

original

CAUSE NO. 002 - 02684 - 2017

DARLENE AMRHEIN, Plaintiff

COUNTY COURT AT LAW

v.

ATTORNEY LENNIE BOLLINGER &
WORMINGTON & BOLLINGER Law Firm, et al

COLLIN COUNTY, TEXAS

FILED
COUNTY COURT
AT LAW
2017 OCT 26 PM 5:51
CLERK
COLLIN COUNTY, TEXAS
BY: M. J. JONES

**PLAINTIFF'S MOTION FOR PERMISSION TO APPEAL IN FORMA PAUPERIS FOR
FILED NOTICE OF APPEAL AND DOCKET STATEMENT**

Comes now, Plaintiff Darlene C. Amrhein to file Plaintiff's Motion For Permission To File In Forma Pauperis & attached signed Affidavit required to proceed without Court Cost for the following "good cause" reasons:

1. Plaintiff is 71 years young, disabled senior citizen, no employment & unable to work;
2. Plaintiff can't get an attorney as no money for retainer, so forced to act as pro se;
3. Plaintiff is under doctors' care, very limited function for basic standard living activities;
4. Plaintiff on limited Social Security income \$1,321.00 monthly below poverty with Federal Assistance Snap Food, Diabetic Medications & Medicare Insurance monthly premiums;
5. Plaintiff's home destroyed est. \$230,000.00 of storm damages & can't be sold in condition;
6. Plaintiff's damages is leaking roof, very limited plumbing, moisture in walls, ceilings requiring reconstruction, removal of toxic mold, replacement of floors, drywall, insulation, removal of roof, supports & roof decking, tunneling 30 feet under foundation to replace broken plumbing pipes, water lines & sewer lines, camera ed inspection, repainting all damaged areas; storage of furniture, cleaning, removal & pest control of Black Mold;
7. Plaintiff can't sell this home in these conditions as no approved loans & no inspection pass;
8. Plaintiff's insurance company premiums went up over \$500.00 for year due to all damages;
9. Plaintiff lives under poor living conditions with limited water & low income for even food;
10. Plaintiff has no spouse, no additional means of support & limited daily functional-ability;
11. Plaintiff in arrears due to medical bills, multiple surgeries & turned over to bill collectors \$104,000 due to injuries, damages, injustices that require filing this lawsuit from Justice Court;
12. Plaintiff has car repairs needed for 10 year old car that can't be repaired due to low income;
13. Plaintiff needs dental work for 3 broken teeth that can't be fixed due to low income;
14. Plaintiff lost \$13,000.00 plus due to theft, Property Tax penalties, abuses & unpaid rent;

In Conclusion & Prayer to please allow this Plaintiff In Forma Pauperis for all redress, grievances & Constitutional Rights that have been violated in lower court, as four times granted in forma pauperis & Plaintiff has no money to pay any Court Costs. Attached sworn affidavit.

Darlene C. Amrhein

Respectfully submitted, Darlene C. Amrhein, Plaintiff, Pro Se

10/26/17

original

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA



Cause Number: _____

(The Clerk's office will fill in the Cause Number when you file this form)

Plaintiff: Darlene Balistreni -
(Print first and last name of the person filing the lawsuit.)

In the

(check one):

☐ District Court

☒ County Court / County Court at Law

☐ Justice Court

And

Court
Number

Defendant: Attorney Lonnie Bollinger, et al Texas
(Print first and last name of the person being sued.) County

Wormington Law Firm, et al

Statement of Inability to Afford Payment of
Court Costs or an Appeal Bond

1. Your Information

My full legal name is: Darlene Balistreni - My date of birth is: 7.18.1946
First Middle Last Month/Day/Year

My address is: (Home) 112 Winsley Circle, McKinney, Tx 75071
(Mailing) 112 Winsley Circle, McKinney, Tx 75071

My phone number: 972-547-0448 My email: winsley112@yahoo.com

About my dependents: "The people who depend on me financially are listed below."

Name	Age	Relationship to Me
1 <u>None / NA</u>		
2		
3		
4		
5		
6		

2. Are you represented by Legal Aid?

☐ I am being represented in this case for free by an attorney who works for a legal aid provider or who received my case through a legal aid provider. I have attached the certificate the legal aid provider gave me as 'Exhibit: Legal Aid Certificate.'

-or-

☐ I asked a legal-aid provider to represent me, and the provider determined that I am financially eligible for representation, but the provider could not take my case. I have attached documentation from legal aid stating this.

or-

☒ I am not represented by legal aid. I did not apply for representation by legal aid.

3. Do you receive public benefits?

☐ I do not receive needs-based public benefits. - or -

☒ I receive these public benefits/government entitlements that are based on indigency:
(Check ALL boxes that apply and attach proof to this form, such as a copy of an eligibility form or check.)

☒ Food stamps/SNAP ☐ TANF ☐ Medicaid ☐ CHIP ☐ SSI ☐ WIC ☐ AABD

☐ Public Housing or Section 8 Housing ☐ Low-Income Energy Assistance ☐ Emergency Assistance

☐ Telephone Lifeline ☐ Community Care via DADS ☐ LIS in Medicare ("Extra Help")

☐ Needs-based VA Pension ☐ Child Care Assistance under Child Care and Development Block Grant

☒ County Assistance, County Health Care, or General Assistance (GA)

☒ Other: Medication Assistance & Medicare Premium Assistance

4. What is your monthly income and income sources?

"I get this monthly income:

\$ 0 in monthly wages. I work as a unable to work N/A
Your job title Your employer

\$ 0 in monthly unemployment. I have been unemployed since (date) _____

\$ 3 in public benefits per month. Medicine + pay Medicare Premium SS.

\$ 0 from other people in my household each month: (List only if other members contribute to your household income.)

\$ 1321.00 from ☐ Retirement/Pension ☐ Tips, bonuses ☐ Disability ☐ Worker's Comp
☒ Social Security ☐ Military Housing ☐ Dividends, interest, royalties
☐ Child/spousal support
☐ My spouse's income or income from another member of my household (if available)

\$ 0 from other jobs/sources of income. (Describe) None

\$ 1321.00 is my total monthly income.

5. What is the value of your property?

"My property includes:

Cash \$ 2.00

Bank accounts, other financial assets

Checking \$ 20.00

Savings \$ 1.16

Vehicles (cars, boats) (make and year)

2007 GMC Envoy \$ 4,000

Other property (like jewelry, stocks, land, another house, etc.)

House Damaged \$ 210,000

from storm Major \$

need repairs \$

Total value of property → \$ 297,028.16

*The value is the amount the item would sell for less the amount you still owe on it, if anything.

\$ 297,028.16

7. Are there debts or other facts explaining your financial situation?

"My debts include: (List debt and amount owed)

Serious Damages on Home, Leaking

roof, 2 Back Surgeries, unable to work, over 100,000

outstanding medical bills, turned over for collections,

(If you want the court to consider other facts, such as unusual medical expenses, family emergencies, etc., attach another page to this form labeled "Exhibit: Additional Supporting Facts.") Check here if you attach another page. ☒

8. Declaration

I declare under penalty of perjury that the foregoing is true and correct. I further swear:

☒ I cannot afford to pay court costs.

☒ I cannot furnish an appeal bond or pay a cash deposit to appeal a justice court decision.

My name is DARLENE Balistrieri-Anshein

My date of birth is: 7 18 1946

My address is 112 Winslow Circle, McKinney, TX 75071

Street City State Zip Code Country

Darlene Balistrieri-Anshein signed on 10 26 2017 Collin County, TEXAS

Signature Month/Day/Year county name State

© Form Approved by the Supreme Court of Texas by order in Misc. Docket No. 16-9122

Statement of Inability to Afford Payment of Court Costs

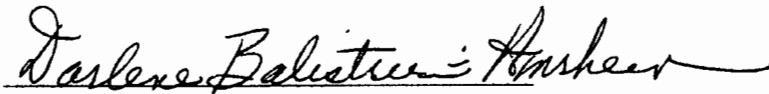
Page 2 of 2

38

3.

Explanation of Financial Condition for Darlene Balistreri-Amrhein

1. Plaintiff is 71 years young, disabled senior citizen, no employment & unable to work;
2. Plaintiff is representative for her deceased Dad, who was in prior associated lawsuit;
3. Plaintiff is diabetic, in poor health, pending back surgeries, in back brace, under multiple Doctors' care & very limited function for basic standard living activities outside of any control;
4. Plaintiff on limited Social Security income \$1,321.00 monthly below poverty with Federal Assistance Snap Food, Diabetic Medications & Medicare Insurance monthly premiums;
5. Plaintiff's home destroyed est. \$230,000.00 of storm damages & can't be sold in condition;
6. Plaintiff's damages is leaking roof, very limited plumbing, moisture in walls, ceilings requiring reconstruction, removal of toxic mold, replacement of floors, drywall, insulation, removal of roof, supports & roof decking, tunneling 30 feet under foundation to replace broken plumbing pipes, water lines & sewer lines, camera ed inspection, repainting all damaged areas, cleaning & removal & pest control;
7. Plaintiff can't sell this home in these conditions as no approved loans & no inspection pass;
8. Plaintiff's insurance company premiums went up over \$500.00 for year due to all damages;
9. Plaintiff lives under poor living conditions with limited water & low income for even food;
10. Plaintiff has no spouse, no additional means of support & limited daily functional-ability;
11. Plaintiff in arrears due to medical bills, multiple surgeries & turned over to bill collectors due to injuries, damages, injustices that require filing this Original Petition & Request for Discovery, assault, thefts as things have been really awful for past years since Dad died in 2013.



Darlene Balistreri-Amrhein, Plaintiff, Pro Se

10/26/17

VERIFICATION / AFFIDAVIT

CAUSE NO. _____

STATE OF TEXAS

COUNTY OF COLLIN

BEFORE ME, the undersigned Plaintiff / Appellant Darlene C. Balistreri-Amrhein, who swore in her capacity & individually on her sworn oath, deposed and said she prepared and signed Plaintiffs' Original Petition And Request For Discovery And Motion For Permission To Proceed In Forma Pauperis With Sworn Affidavit.

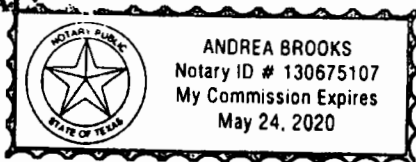
This information as referenced and stated within is true and correct and of Darlene C. Balistreri-Amrhein's own personal knowledge to the best of her ability & as documented. This state and or federal filing is for purpose of "due process," fairness, Justice under State and Federal Laws & presented in applicable Court attached as sited for consideration of this Court filing.

Darlene C. Balistreri-Amrhein

Darlene C. Balistreri-Amrhein, Plaintiff, Pro Se

SUBSCRIBED AND SWORN TO ME, BEFORE ME: ON Oct 26, 2017 to
certify which witness my hand and official seal.

SEAL:



Andrea Brooks

Notary Public of Texas (Printed Name)

Andrea Brooks

Notary Public of Texas (Signature)

Commission Expires May 24 2020

CERTIFICATE OF SERVICE

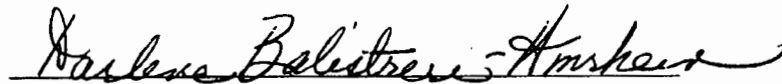
A true and correct copy of Plaintiffs' Original Petition And Request For Discovery & Motion For Permission To Proceed In Forma Pauperis was served in person or by Certified Mail through the United States Post Office on Oct. 26, 2017 to the following:

Collin County Courthouse & County Court at Law In Person
Collin County District Clerk's Office
2100 Bloomdale Rd.
McKinney, TX 75071

Wormington Law Firm (W & B) Certified # 7017 0530 0000 6415 8414
212 East Virginia Street
McKinney, TX. 75069

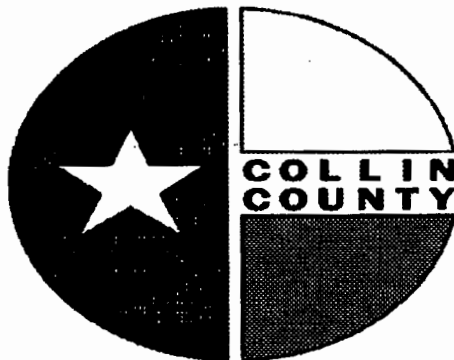
Attorney Lennie Bollinger Certified # 7017 0530 0000 6415 8407
212 East Virginia Street
McKinney, TX. 75069

Respectfully submitted,



Darlene Balistreri-Amrhein, Plaintiff, Pro Se and
Representative for Deceased Anthony J. Balistreri

10/26/17

Misdemeanor ☐ Felony ☐

Re-review date:

LANGUAGE:

CASE NO. 002-02654-2017**DARLENE BALISTRERI-AMRHEIN**

SO#

Task of Status	Name of Person Completing Task	Date	Comments
<input type="checkbox"/> Received Magistrate's Warning			
<input type="checkbox"/> Affidavit of Indigency Received	TS	10/26/2017	
<input type="checkbox"/> Affidavit of Indigency Reviewed	TS	10/26/2017	
<input type="checkbox"/> Found INDIGENT by Designee or Court	TS	10/26/2017	RCV PUBLIC ASST
<input type="checkbox"/> Found NOT INDIGENT by Designee or Court			
<input type="checkbox"/> Sent to Court/Clerk for Appointment			
<input type="checkbox"/> Sent to Judge for Review			
<input type="checkbox"/> Sent to Clerk for retention until Indicted			
<input type="checkbox"/> Found INDIGENT by Designee or Court			
<input type="checkbox"/> Found NOT INDIGENT by Designee or Court			
<input type="checkbox"/> Attorney NOT Appointed, Clerk to retain attached documents in sealed envelope in file			
<input type="checkbox"/> Name of Attorney Appointed			

FILED
COUNTY COURT AT LAW
2017 OCT 26 PM 1:51
STACEY KEMP
COUNTY CLERK
COLLIN COUNTY, TEXAS
B. M. L. DE PITY

2017 Federal Poverty Guidelines

Size of Family		% of Poverty	100%	Yearly 125%
1	15,852	131%	\$12,060	\$15,075
2		0%	\$16,240	\$20,300
3		0%	\$20,420	\$25,525
4		0%	\$24,600	\$30,750
5		0%	\$28,780	\$35,975
6		0%	\$32,960	\$41,200
7		0%	\$37,140	\$46,425
8		0%	\$41,320	\$51,650
9		0%	\$45,500	\$56,875
10		0%	\$49,680	\$62,100
11		0%	\$53,860	\$67,325

Source: Federal Register, Vol. 82, No. 19, January 31, 2017, pp. 8831-8832

ELIGIBLE

Notes for Review:

STATE OR SELF reported income is MORE than 125% of the federal poverty level. Applicant asserts receiving food stamps, medication assistance and medicare premium assistance.

ISSUANCE REQUESTDate 10-26-2017 Case Number 002-02654-2017Requested By Darlene Amrhein Phone 972-547-0448Address 112 Winsley CircleCity McKinney State TX Zip 75071☒ Issue Citation(s)☒ In County Service

Special Instructions

Attorney Lennie F. Bollinger
& Wormington & Bollinger Law Firm
(W4B) 212 East Virginia Street McKinney
212 East Virginia St. McKinney, Tx 75069 75069

☐ Issue Additional Writ(s)☐ In County Service

Special Instructions

☐ Issue Additional Notice(s)☐ In County Service

Special Instructions

☐ Other Issuance

Special Instructions

FILED
 COUNTY COURT AT LAW
 2017 OCT 26 PM 2:04
 STACEY KEMP
 COUNTY CLERK
 COLLIN COUNTY, TEXAS
 BY: [Signature]
 DEPUTY

 Pick Up Waiting Mail Back To Attorney

ISSUANCE REQUEST

Date 10-26-2017 Case Number 002-02654-2017

Requested By Darlene Amrhein Phone 972-547-0448

Address 112 Winsley Circle

City McKinney State TX Zip 75071

☒ Issue Citation(s)

☒ In County Service

Special Instructions

Attorney Lennie F. Bollinger
& Wormington & Bollinger Law Firm
(W4B) 212 East Virginia Street McKinney
212 East Virginia St. McKinney, Tx 75069 75069

☐ Issue Additional Writ(s)

☐ In County Service

Special Instructions

☐ Issue Additional Notice(s)

☐ In County Service

Special Instructions

☐ Other Issuance

Special Instructions

FILED
COUNTY COURT AT LAW
2017 OCT 26 PM 2:04
STACEY KEMP
COUNTY CLERK
COLLIN COUNTY, TEXAS
BY: [Signature]
CLERK OF DISTRICT

☐ Pick Up ☐ Waiting ☐ Mail Back To Attorney

THE STATE OF TEXAS
COUNTY OF COLLIN

CITATION
002-02654-2017

TO: Attorney Lennie F. Bollinger, et al
212 East Virginia Street
McKinney, TX 75069

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney does not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you."

GREETINGS:

You are commanded to appear by filing a written answer to the **PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCOVERY** on or before 10:00 a.m. of the Monday next after the expiration of twenty (20) days after the date of service hereof, before the Honorable Barnett Walker in the County Court at Law 2, of Collin County at the Courthouse in McKinney, Texas.

Said **PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCOVERY** was filed on the 26th day of October, 2017. A copy of said document accompanies this citation.

REQUESTED BY: Darlene Amrhein
112 Winsley Circle
McKinney, TX 75071

The file number of said suit being: 002-02654-2017

**DARLENE AMRHEIN, ET AL VS. ATTORNEY LENNIE F. BOLLINGER, ET AL;
WORMINGTON & BOLLINGER LAW FIRM, ET AL; AND ALL PROFESSIONAL
LIABILITY & LEGAL MALPRACTICE INSURANCE COMPANIES**

GIVEN UNDER MY HAND AND SEAL OF SAID COURT, at office in Collin County,
McKinney, Texas, on the 27th day of October, 2017.



ATTEST: STACEY KEMP, COUNTY CLERK
Collin County, Texas
2100 Bloomdale Road, Suite 12165
McKinney, Texas 75071
972-548-6423, METRO 972-424-1460 EXT. 6423

Signed: 10/27/2017 2:29:32 PM
Issued By: Leuna D. Mack, Deputy
Leuna D. Mack

THE STATE OF TEXAS
COUNTY OF COLLIN

Officer's Return
STACEY KEMP, COUNTY CLERK

-CITATION-
002-02654-2017

**DARLENE AMRHEIN, ET AL VS. ATTORNEY LENNIE F. BOLLINGER, ET AL;
WORMINGTON & BOLLINGER LAW FIRM, ET AL; AND ALL PROFESSIONAL LIABILITY
& LEGAL MALPRACTICE INSURANCE COMPANIES**

Came to hand on the _____ day of _____, 20____, _____ o'clock
____.m., and executed in _____ County, Texas, by delivering to within
Respondent, to Wit:

Name: _____

At _____ o'clock _____.m., on _____ day of _____,
20_____.

Address: _____

Each in person, a true copy of this citation with a true and correct copy of the petition
attached thereto having first endorsed on such copy of said citation the date of delivery.

The distance actually traveled by me in serving such process was _____
miles, and my fees are as follows:

For Serving this citation.....\$ _____
For Mileage.....\$ _____
TOTAL FEES.....\$ _____

To certify which witness my hand officially

Sheriff _____

Of _____ County, Texas

By _____ Deputy, Authorized Person

Before me, the undersigned authority, personally appeared _____
who on oath said:

"I affirm that I am the person serving process in this case and that the contents of
the foregoing are true and correct."

Affiant

Sworn to and signed before me, the undersigned authority, this _____ day of
_____, 20_____.

Seal

Notary Public or Other Officer

**THE STATE OF TEXAS
COUNTY OF COLLIN**

CITATION
002-02654-2017

TO: Wormington Law Firm, et al
212 East Virginia Street
McKinney TX 75069

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney does not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you."

GREETINGS:

You are commanded to appear by filing a written answer to the **PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCOVERY** on or before 10:00 a.m. of the Monday next after the expiration of twenty (20) days after the date of service hereof, before the Honorable Barnett Walker in the County Court at Law 2, of Collin County at the Courthouse in McKinney, Texas.

Said **PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCOVERY** was filed on the 26th day of October, 2017. A copy of said document accompanies this citation.

REQUESTED BY: Darlene Amrhein
112 Winsley Circle
McKinney, TX 75071

The file number of said suit being: 002-02654-2017

**DARLENE AMRHEIN, ET AL VS. ATTORNEY LENNIE F. BOLLINGER, ET AL;
WORMINGTON & BOLLINGER LAW FIRM, ET AL; AND ALL PROFESSIONAL
LIABILITY & LEGAL MALPRACTICE INSURANCE COMPANIES**

GIVEN UNDER MY HAND AND SEAL OF SAID COURT, at office in Collin County,
McKinney, Texas, on the 27th day of October, 2017.



ATTEST: STACEY KEMP, COUNTY CLERK
Collin County, Texas
2100 Bloomdale Road, Suite 12165
McKinney, Texas 75071
972-548-6423, METRO 972-424-1460 EXT. 6423

Signed: 10/27/2017 2:47:43 PM
Issued By: Leuna D. Mack, Deputy
Leuna D. Mack

THE STATE OF TEXAS
COUNTY OF COLLIN

Officer's Return
STACEY KEMP, COUNTY CLERK

-CITATION-
002-02654-2017

**DARLENE AMRHEIN, ET AL VS. ATTORNEY LENNIE F. BOLLINGER, ET AL;
WORMINGTON & BOLLINGER LAW FIRM, ET AL; AND ALL PROFESSIONAL LIABILITY
& LEGAL MALPRACTICE INSURANCE COMPANIES**

Came to hand on the _____ day of _____, 20____, _____ o'clock
____.m., and executed in _____ County, Texas, by delivering to within
Respondent, to Wit:

Name: _____

At _____ o'clock _____.m., on _____ day of _____,
20_____.

Address: _____

Each in person, a true copy of this citation with a true and correct copy of the petition
attached thereto having first endorsed on such copy of said citation the date of delivery.

The distance actually traveled by me in serving such process was _____
miles, and my fees are as follows:

For Serving this citation.....\$ _____
For Mileage.....\$ _____
TOTAL FEES.....\$ _____

To certify which witness my hand officially

Sheriff _____

Of _____ County, Texas

By _____ Deputy, Authorized Person

Before me, the undersigned authority, personally appeared _____
who on oath said:

"I affirm that I am the person serving process in this case and that the contents of
the foregoing are true and correct."

Affiant

Sworn to and signed before me, the undersigned authority, this _____ day of
_____, 20_____.

Seal

Notary Public or Other Officer

Filed
County Court at Law
11/02/2017 3:57 PM
Stacey Kemp, County Clerk
Collin County, Texas
Deputy: Mack, Leuna D.

OFFICER'S RETURN Citation

Case: 002-02654-2017

**Darlene Amrhein, et al VS. Attorney Lennie F. Bollinger, et al;
Wormington & Bollinger Law Firm, et al; and All Professional
Liability & Legal Malpractice Insurance Companies**

Came to hand on the 27th day of October, 2017, at 4:37 PM, and executed in Collin County, Texas, by delivering to the within named defendant, to wit: **WORMINGTON LAW FIRM** at 9:15 AM, on the 1st day of November, 2017, at 212 East Virginia Street McKinney TX 75069, in person, a true copy of the Citation, with a true and correct copy of the petition attached thereto having first endorsed on such copy of said Citation the date of delivery.

SERVED JEREMY FRIESEN, OFFICE MANAGER

Service Fee: \$75.00

SHANE WILLIAMS
Constable, Pct. 1
Collin County, Texas

Deputy: _____

Brown, Stan

**OFFICER'S RETURN
Citation**

Filed
County Court at Law
11/06/2017 3:31 PM
Stacey Kemp, County Clerk
Collin County, Texas
Deputy: Mack, Leuna D.

Case: 002-02654-2017

**Darlene Amrhein, et al VS. Attorney Lennie F. Bollinger, et al;
Wormington & Bollinger Law Firm, et al; and All Professional
Liability & Legal Malpractice Insurance Companies**

Came to hand on the 27th day of October, 2017, at 4:37 PM, and executed in Collin County, Texas, by delivering to the within named defendant, to wit: *Bollinger, Lennie F.* at 2:15 PM, on the 3rd day of November, 2017, at 212 East Virginia Street McKinney TX 75069, in person, a true copy of the Citation, with a true and correct copy of the petition attached thereto having first endorsed on such copy of said Citation the date of delivery.

Service Fee: \$75.00

SHANE WILLIAMS
Constable, Pct. 1
Collin County, Texas

Deputy: _____

Brown, Stan

CAUSE NO. 002-02654-2017

DARLENE AMRHEIN, et al,

Plaintiffs,

vs.

ATTORNEY LENNIE F. BOLLINGER, et al;
WORMINGTON & BOLLINGER LAW FIRM, et
al; AND ALL PROFESSIONAL LIABILITY &
LEGAL MALPRACTICE INSURANCE
COMPANIES

Defendants.

COUNTY COURT AT LAW

NO. 2

[Hon. Barnett Walker]

COLLIN COUNTY, TEXAS

Defendants Lennie F. Bollinger and Wormington & Bollinger's Original Answer

Defendants Lennie F. Bollinger and Wormington & Bollinger ("Defendants") file this Original Answer in response to the Original Petition filed by Plaintiff Darlene Amrhein in her individual capacity and in her representative capacity on behalf of Anthony Balisteri (collectively "Amrhein" or "Plaintiff"), and in support thereof would respectfully show the Court as follows:

I. General Denial

Defendants generally deny the allegations of Plaintiff's Original Petition, as authorized by Texas Rule of Civil Procedure 92. Defendants demand that Plaintiff be required to prove her claims against Defendants in accordance with the burdens of proof made applicable by Texas law.

II. Affirmative Defenses and Other Defensive Matters

For further answer, and without assuming any burden of proof which is not otherwise placed on Defendants by operation of law, Defendants allege that Amrhein's claims against them are barred in whole or in part by the following matters:

1. Plaintiff's claims breach of fiduciary duty, breach of contract, fraud, negligent misrepresentation, "bad faith", and violations of the Texas Rules of Civil Procedure are impermissibly fractured claims for legal malpractice.
2. Plaintiff's claims fail as a matter of law because the alleged act and/or omissions of Defendants, if any, were not the proximate cause of damages to Plaintiff.
3. To the extent that Plaintiff alleges claims for emotional distress, mental anguish, and "fear" against Defendants, Plaintiff's claims for mental anguish damages fails as a matter of law. Mental anguish and other personal injury damages are not recoverable by a plaintiff alleging financial loss as a result of an attorney's alleged malpractice.
4. Plaintiff's claims for exemplary damages are barred, in whole or in part, based on Chapter 41, Texas Civil Practice and Remedies Code. Further, any award of exemplary damages would be in violation of Defendants' rights to due process under the 14th Amendment to the United States Constitution and the Texas Constitution.

III. Limit on Exemplary Damages

Defendants affirmatively plead that Plaintiff's claim for exemplary damages is restricted and limited by the Exemplary Damages Act in Chapter 41 of the TEXAS CIVIL PRACTICE AND REMEDIES CODE. Further, Plaintiff's claim for exemplary damages is grossly excessive and does not comply with due process under the U.S. or Texas Constitution. Defendants invoke all the limitations upon damages and exemplary damages contained in Chapter 41 of the Texas Civil Practice & Remedies Code, including, without limitation, sections 41.006, 41.007, and 41.008, both in terms of the maximum amount of damages that can be awarded pursuant to that statute and the procedural safeguards guaranteed by the referenced provisions. Defendants also invoke all other applicable state law, federal law, statutory and/or common-law caps or limitations on exemplary damages.

IV. Special Exceptions

Defects in Form

Defendants specially except to section II of Plaintiff's Original Petition because it fails to specify all of the parties Plaintiff sues. Section II states "et al" after each named party - Wormington Law Firm, Attorney Lennie F. Bollinger, and Darlene Amrhein - but does not list the persons to whom "et al" refers. Further, the caption of the Petition states that "All professional liability and legal malpractice insurance companies" are defendants but then fails to identify any such liability carrier as a party, or otherwise assert a cause of action against any carrier. These defects make the Petition impermissibly vague and ambiguous and do not put Defendants on notice of who the plaintiffs or defendants are in this case.

Defendants specially except to section III, paragraphs 1 to 24 and paragraph 31, which identifies David Schroeder as a "Defendant." David Schroeder is not named in the caption or in the section identifying the parties. Plaintiff's Petition is impermissibly vague and misleading if this defect is not corrected. To the extent that Plaintiff seeks to attribute the claims in section III, paragraphs 1 to 24, 31 to Defendants, Defendants specifically except and request that Plaintiff clarify the pleadings.

Defendants therefore request that the court sustain these special exceptions and order Plaintiff to amend her petition clarifying the ambiguous parties in section II and section III, paragraphs 1 to 24, 31 or, in the alternative, amend her petition to give Defendants sufficient notice who the parties are in this lawsuit. If Plaintiff fails or refuses to so amend within two weeks from a hearing on this matter, Defendants request that the action be dismissed.

Impermissible Fracture

Defendants further specially except to the first paragraph of section III; section III, paragraph 28; section IV, paragraphs 1, 2, 3, 4, 12, 13, 37, 38, 42, 43, and 51; and section V of Plaintiff's Petition which allege causes of action for breach of fiduciary duty, breach of contract, fraud, negligent misrepresentation, "bad faith", and violations of the Texas Rules of Civil Procedure because it is well established under Texas law that a suit for legal malpractice is grounded in negligence and therefore sounds in tort regardless of how a plaintiff frames a complaint. When the crux of the complaint is that the attorneys did not provide adequate legal representation, courts do not allow a plaintiff to convert what is really a negligence claim into claims for fraud, breach of fiduciary duty, breach of contract, or violations of the DTPA. *See Murphy v. Gruber*, 241 S.W.3d 689, 693 (Tex. App.—Dallas 2007, pet denied). The crux of Plaintiff's complaint in this case is (1) that Defendants withdrew from representing Plaintiff in Justice Court, which allegedly contributed to the judge dismissing Plaintiff's claims, and, (2) unrelated to the case in Justice Court, that Defendants reviewed files pertaining to Plaintiff and/or Plaintiff's deceased father and allegedly did not promptly return the files to Plaintiff, which allegedly affected Plaintiff's ability to file a lawsuit concerning her father. Texas law is well-settled that the alleged failure to properly advise, inform and communicate are claims of professional negligence. *See Gruber*, 241 S.W.3d at 698 (attorneys' representation that the client's claims were not worth pursuing despite the fact that the attorneys knew the clients had viable and valuable claims was professional negligence); *see also Jacobs v. Tapscott*, No. 3:04-CV-1968-D, 2006 U.S. Dist. LEXIS 68619, at *4 (N.D. Tex. Sept. 25, 2006) (attorneys' failure to inform clients before settling that \$180,000 of a \$200,000 settlement was a worthless note that would never be collected was a negligence claim); *J.A. Green Dev. Corp. v. Grant Thornton, LLP*, No. 05-15-00029-CV, 2016 Tex. App. LEXIS 6847, *18-23

(Tex. App.—Dallas June 28, 2016, pet. denied) (allegations which charge that advice was wrong and incomplete are professional negligence claims).

Accordingly, Plaintiff's causes of action for breach of fiduciary duty, negligent misrepresentation, "bad faith, breach of contract, fraud, and allegations of violations of the Texas Rules of Civil Procedure are really a means to an end to achieve a complaint of legal malpractice. Defendants therefore request that the court sustain this special exception and order that the allegations concerning breach of fiduciary duty, negligent misrepresentation, "bad faith, breach of contract, fraud, and violations of the Texas Rules of Civil Procedure be stricken, that Plaintiff amend her petition within two weeks of a hearing on this matter, and that if Plaintiff fails or refuses to amend, the action be dismissed.

Breach of Fiduciary Duty

Defendants specially except to section III, paragraph 28 and section IV, paragraphs 37 and 38 of Plaintiff's Petition because they allege that Defendants breached their fiduciary duty to Plaintiff, but fail to identify what improper benefit Defendants obtained from representing Plaintiff. In a claim for breach of fiduciary duty, the complaint focuses on whether the attorney received an improper benefit from the representation. *J.A. Green Dev. Corp.*, No. 05-15-00029-CV, 2016 Tex. App. LEXIS 6847, at *17; *see also Ashton v. Koonsfuller, P.C.*, No. 05-16-00130-CV, 2017 Tex. App. LEXIS 4293 *14 (Tex. App.—Dallas May 10, 2017, no pet.). Plaintiff has not alleged facts in support of her claim for breach of fiduciary duty which constitute self-dealing, deception, or misrepresentations designed to obtain an improper benefit from Defendants' representation of her. *Gibson v. Ellis*, 126 S.W.3d 324, 330 (Tex. App.—Dallas 2004, no pet.); *Goffney v. Rabson*, 56 S.W.3d 186, 194 (Tex. App.—Houston [14th Dist.] 2001, no pet.); *Nabors*

v. *McColl*, No. 05-08-01491-CV, 2010 Tex. App. LEXIS 571, *10-12 (Tex. App.—Dallas Jan. 25, 2010, pet. denied).

Thus, Plaintiff's Petition is impermissibly vague and does not give Defendants fair notice of the allegations against them in this case. Defendants therefore request that the court sustain this special exception and order Plaintiff to amend her petition removing the allegations found in section III, paragraph 28 and section IV, paragraphs 37 and 38, or, in the alternative, amend her petition to give Defendants sufficient notice of the facts which support her claim for breach of fiduciary duty. If Plaintiff fails or refuses to so amend within two weeks from a hearing on this matter, Defendants request that the action be dismissed.

Allegations Regarding U.S. Constitutional and Civil Rights

Defendants specially except to section III, paragraphs 10, 17 and 50 of Plaintiff's Petition which attempt to allege a violation of Plaintiff's civil rights and/or some kind of discrimination against Plaintiff because these statements are impermissibly vague and indefinite and do not give Defendants fair notice of the allegations against them in this case. Plaintiff fails to state any facts in support of these allegations. Further, Defendants are not state actors and therefore cannot be sued for any alleged violation of constitutional or civil rights. A civil rights plaintiff must demonstrate (1) a violation of the Constitution or of federal law; and (2) that the violation was committed by someone acting under color of state law. *See Atteberry v. Nocona Gen. Hosp.*, 430 F.3d 245, 252-53 (5th Cir. 2005). That is, "the deprivation must be caused by the exercise of some right or privilege created by the State or by a rule of conduct imposed by the State or by a person for whom the State is responsible." *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 936, 102 S. Ct. 2744, 73 L. Ed. 2d 482 (1982). The party charged with the deprivation must be a person who may fairly be said to be a state actor – one who is, in fact, a state official, one who has acted with or has

obtained significant aid from state officials, or one whose conduct is otherwise chargeable to the State. *Id.*, at 937.

The Defendants are not state actors. They are private citizens in private law practice. Plaintiff sets forth no factual allegations to the contrary.

Moreover, Plaintiff was not at any time employed by Defendants. Therefore, any allegation of discrimination based on gender, age or disability has no merit. Defendants therefore request that the court sustain this special exception and order Plaintiff to amend her petition removing section III, paragraphs 10, 17 and 50, or, in the alternative, amend her petition to give Defendants sufficient notice of the alleged violations of Plaintiff's constitutional and civil rights. If Plaintiff fails or refuses to so amend within two weeks from a hearing on this matter, Defendants request that the action be dismissed.

Violations of Texas Laws

Defendants specially except to the first paragraph of section III; section III, paragraph 36; and section IV, paragraph 43 of Plaintiff's Petition because they merely allege that Defendants violated laws. These statements are impermissibly vague and indefinite and do not give Defendants fair notice of the allegations against them in this case. *See Baylor Univ. v. Sonnichsen*, 221 S.W.3d 632, 635 (Tex. 2007). Defendants therefore request that the court sustain this special exception and order Plaintiff to amend her petition removing the allegations in the first paragraph of section III; section III, paragraph 36; section IV, paragraph 43, or, in the alternative, amend her petition to give Defendants sufficient notice of which laws plaintiff alleges Defendants violated. If Plaintiff fails or refuses to so amend within two weeks from a hearing on this matter, Defendants request that the action be dismissed.

Negligent Misrepresentation

Defendants specially except to section IV, paragraphs 2, 5, 7, 36, 49, and 51 because they allege that Defendants committed negligent misrepresentation, but fail to identify any false information for the guidance of Plaintiff. The elements of negligent misrepresentation are (1) the representation is made by a defendant in the course of his business, or in a transaction in which he has a pecuniary interest; (2) the defendant supplies "false information" for the guidance of others in their business; (3) the defendant did not exercise reasonable care or competence in obtaining or communicating the information; and (4) the plaintiff suffers pecuniary loss by justifiably relying on the representation. *Fed. Land Bank Ass'n v. Sloane*, 825 S.W.2d 439, 442 (Tex. 1991). Plaintiff's claims of negligent misrepresentation are vague and conclusory and do not give Defendants fair notice of the allegations against them in this case. Plaintiff fails to plead all the elements of a negligent misrepresentation cause of action against Defendants, and further, Plaintiff's Petition fails to set forth facts in support of these required elements.

Defendants therefore request that the court sustain this special exception and order Plaintiff to amend her petition removing the allegations in section IV, paragraphs 2, 5, 7, 36, 49, and 51, or, in the alternative, amend her petition to give Defendants sufficient notice of the facts supporting her claim of negligent misrepresentation. If Plaintiff fails or refuses to so amend within two weeks from a hearing on this matter, Defendants request that the action be dismissed.

Conspiracy

Defendants specially except to section IV, paragraph 51 of Plaintiff's Petition because it alleges that Defendants participated in a conspiracy but fails to identify any facts supporting this allegation, including facts surrounding identifying the conspiring persons, the object to be accomplished, the meeting of the minds, the unlawful acts, or the damages as a proximate result of the conspiracy. The essential elements of a conspiracy are (1) two or more persons; (2) an object

to be accomplished; (3) a meeting of minds on the object or course of action; (4) one or more unlawful, overt acts; and (5) damages as the proximate result. *Massey v. Armco Steel Co.*, 652 S.W.2d 932, 934 (Tex. 1983). A specific intent to agree to accomplish the unlawful purpose or to accomplish the lawful purpose by unlawful means is also required. *Triplex Communications, Inc. v. Riley*, 900 S.W.2d 716, 719 (Tex. 1995). Plaintiff has not alleged facts supporting a claim of conspiracy because, given the requirement of specific intent, parties cannot engage in a civil conspiracy to be negligent. *Triplex Communications, Inc. v. Riley*, 900 S.W.2d 716, 720 (Tex. 1995).

Thus, Plaintiff's Petition is impermissibly vague and does not give Defendants fair notice of the allegations against them in this case. Plaintiff fails to plead all the elements of a conspiracy cause of action against Defendants, and further, Plaintiff's Petition fails to set forth facts in support of these required elements. Defendants therefore request that the court sustain this special exception and order Plaintiff to amend her petition removing the allegations found in section IV, paragraph 51, or, in the alternative, amend her petition to give Defendants sufficient notice of the facts which support her allegation of conspiracy. If Plaintiff fails or refuses to so amend within two weeks from a hearing on this matter, Defendants request that the action be dismissed.

Violations of Code of Professional Responsibility / Violations of Ethics Rules of State Bar of Texas

Defendants specially except to the first paragraph of section III, section III, paragraph 36 and section IV, paragraphs 14, 16, and 43 of Plaintiff's Petition as alleging violations of the Texas Disciplinary Rules of Professional Conduct, which fail as a matter of law. Violation of a Texas Disciplinary Rule of Professional Conduct does not give rise to a private cause of action nor does it create any presumption that a legal duty to a client has been breached. Tex. Disciplinary Rules of Prof'l Conduct, Preamble, ¶ 15; *Scott Pelley P.C. v. Wynne*, No. 05-15-01560-CV, 2017 Tex.

App. LEXIS 8228, at *59 (Tex. App.—Dallas Aug. 28, 2017). A claim that a lawyer has violated a rule of professional conduct should be raised in a disciplinary proceeding. *McGuire, Craddock, Strother & Hale, P.C. v. Transcon. Realty Inv'rs, Inc.*, 251 S.W.3d 890, 896 (Tex. App.—Dallas 2008).

Defendants therefore request that the court sustain this special exception and order Plaintiff to amend her petition removing the allegations the first paragraph of section III, section III, paragraph 36 and section IV, paragraphs 14, 16, and 43 of Plaintiff's Petition. If Plaintiff fails or refuses to so amend within two weeks from a hearing on this matter, Defendants request that the action be dismissed.

Fraud

Defendants specially except to Plaintiff's allegations because the allegations are conclusory, vague, and fail to adequately put Defendants on notice of the acts complained of in this lawsuit. To prove fraud, a plaintiff must show (1) the defendant made a material representation that was false; (2) the defendant knew the representation was false or made it recklessly as a positive assertion without any knowledge of its truth; (3) the defendant intended to induce the plaintiff to act upon the representation; and (4) the plaintiff actually and justifiably relied upon the representation and thereby suffered injury. *Ernst & Young, L.L.P. v. Pac. Mut. Life Ins. Co.*, 51 S.W.3d 573, 577 (Tex. 2001). Plaintiff fails to plead all the elements of a fraud cause of action against Defendants, and further, Plaintiff's Petition fails to set forth the facts in support of these required elements.

Thus, Plaintiff's Petition is impermissibly vague and does not give Defendants fair notice of the allegations against them in this case. Defendants therefore request that the court sustain this special exception and order Plaintiff to amend her petition removing the allegations of fraud. If

Plaintiff fails or refuses to so amend within two weeks from a hearing on this matter, Defendants request that the action be dismissed.

Claim for Relief

Defendants specially except to section III, paragraphs 22, 25, and 30 and section V, paragraph 1 and request that Plaintiff be required to specify the maximum amount claimed. Plaintiff seeks relief without specifying the maximum amount claimed. Rule 47 of the Texas Rules of Civil Procedure requires that the plaintiff's pleading contain a specific statement of relief sought. Defendants therefore request that the court sustain this special exception and order Plaintiff to amend her petition. If Plaintiff fails or refuses to so amend within two weeks from a hearing on this matter, Defendants request that the action be dismissed.

Claim for Exemplary Damages

Defendants specially except to section IX, paragraph b. of Plaintiff's petition which requests an award of exemplary damages for the reasons that the allegations are conclusory, vague and fail to adequately put Defendants on notice of the acts complained of in this lawsuit. The Petition fails to set forth any facts, much less facts that would support a finding by clear and convincing evidence, that Defendants acted with malice and/or were grossly negligent. *McCullough v. Scarbrough, Medlin & Assocs.*, 435 S.W.3d 871, 911 (Tex.App.—Dallas 2014, pet. denied). Plaintiff does not allege any facts to show that the acts and/or omissions of Defendants, when viewed objectively from the Defendants' standpoint at the time they occurred, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others; or that Defendants had actual subjective awareness of the risk but proceeded with conscious indifference to the rights, safety, or welfare of others. TEX. CIV. PRAC. & REM. CODE § 41.001 (11)(A-B) (gross negligence). Plaintiff does not allege any facts to show that Defendants

had a specific intent to cause substantial injury or harm to Plaintiff. TEX. CIV. PRAC. & REM. CODE § 41.001 (7) (malice).

Defendants therefore request that the court sustain this special exception and order Plaintiff to amend her petition removing the allegations found in section IX, paragraph b. or, in the alternative, amend her petition to give Defendants sufficient notice of the facts which support her claim for exemplary damages. If Plaintiff fails or refuses to so amend within two weeks from a hearing on this matter, Defendants request that the action be dismissed.

Damages for Emotional Distress and Mental Anguish

To the extent that Plaintiff seeks damages for emotional distress and mental anguish against Defendants, Defendants specially except to Plaintiff's request for damages related to alleged emotional distress and mental anguish because these types of damages are not recoverable when the plaintiff's alleged mental anguish is a consequence of economic loss caused by the attorneys' alleged negligence. *Douglas v. Delp*, 987 S.W.2d 879, 885 (Tex. 1999). Defendants therefore request that the court sustain this special exception and order that the request for mental anguish and emotional distress damages be stricken, that Plaintiff amend her petition within two weeks of a hearing on this matter, and that if Plaintiff fails or refuses to amend, the action be dismissed.

V. Prayer

WHEREFORE, PREMISES CONSIDERED, Defendants request that the Court: (1) sustain Defendants' special exceptions, order Plaintiff to re-plead as set out above, and if Plaintiff fails or refuses to re-plead within two weeks from a hearing on the special exceptions, dismiss Plaintiff's petition; (2) enter a take-nothing judgment on all of Plaintiff's claims alleged against Defendants; and (3) find that Plaintiff's requested relief be denied, that Plaintiff take nothing from

Defendants by this lawsuit, that Defendants recover their costs of court, and that Defendants have such other relief to which they may be entitled, including fees and costs.

Respectfully submitted,

By: /s/ Carrie J. Phaneuf

CARRIE JOHNSON PHANEUF

Texas Bar No. 24003790

cphaneuf@cobbmartinez.com

JENNIFER SMILEY

Texas Bar No. 24082004

jsmiley@cobbmartinez.com

COBB MARTINEZ WOODWARD PLLC

1700 Pacific Avenue, Suite 3100

Dallas, Texas 75201

Phone: 214.220.5201

Facsimile: 214.220.5251

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument has been forwarded to Darlene Amrhein, *pro se*, by e-service and email on November 15, 2017.

Darlene Amrhein
112 Winsley Circle
McKinney, Texas 75071
Winsley112@yahoo.com

/s/ Carrie Johnson Phaneuf
CARRIE PHANEUF

originalCAUSE NO002-02654-2017

DARLENE C. AMRHEIN, et al

COUNTY COURT AT LAW

Plaintiffs,

V.

NO. TWO (JUDGE WALKER)

ATTORNEY LENNIE F. BOLLINGER, AND

WORMINTON & BOLLINGER LAW FIRM

COLLIN COUNTY, TEXAS

Defendants,

PLAINTIFF'S MOTION FOR LEAVE FROM THIS COURT TO FILE
PLAINTIFF'S AMENDED & SUPPLEMENT PETITION AND
PLEADINGS FOR "GOOD CAUSE" REASONS

To The Honorable Judge & said Court:

COMES NOW, Plaintiff Darlene C. Amrhein to file Plaintiff's Motion for
 Leave From This Court To File Plaintiff's Amended & Supplement Petition And
 Pleadings For "Good Cause" Reasons as follows:

I. "Good Cause" Reasons

1. Plaintiff filed this lawsuit stated by above style & cause number Oct. 26, 2017;
2. Plaintiff served Defendants Lennie Bollinger & Wormington & Bollinger Law Firm by certified mail as received October 27, 2017 & by constable from Court;
3. Plaintiff received Defendants Answer & General Denial November 15, 2017 by email, which appears that Defendant is confused by Plaintiff's Original Petition, so Plaintiff wants to clear up all issues or concerns immediately in this lawsuit;
4. Plaintiff was unaware two related lawsuits would be heard in the same County Court at Law No. 2 before Judge Barnett Walker as assigned, which is a "Conflict of Interest" that could also pose a problem of bias or prejudice in one lawsuit or both as they proceed as facts are over somewhat overlapping & could affect rulings, discovery & final outcome decisions for either lawsuit;
5. This lawsuit is "new lawsuit" for "due process" on related facts in two cases;

6. The other lawsuit known as 002-02663-2017 was from the Collin County Justice Court No 1 is from Notice of Appeal;
7. Both lawsuits were by "jury trial" & would also cause confusion as to facts;
8. Cause No. 002-02654-2017 has a scheduling Order & Pre Trial Conference set for December 14, 2017;
9. Plaintiff has filed on November 27, 2017 a Motion To Recuse Judge Walker and Court in this Lawsuit for reassignment to another County Court at Law Court voluntarily or by this Motion to prevent any appearance of "Conflicts of Interest" in either lawsuit;
10. Plaintiff is a pro se litigant & files Plaintiff's Motion For Leave From This Court To File Plaintiff's Amended Petition And Pleadings For "Good Cause" Reasons on November 27, 2017 at the same time as Motion To Recuse Judge Walker & Court, which was unknown at time of filing this lawsuit as no assignment in other case that was internal through the Justice Court;
11. Plaintiff means no disrespect of this Court or Judge Barnett Walker in filing this Motion To Recuse voluntary or by motion & wants this to be known in the "interest of Justice," which may be an oversight by the Collin County Court files;
12. This Motion To Recuse is not meant for delay & it's brought in "good faith;"
13. **Plaintiff requests & prays** for Motion For Leave From This Court To File Plaintiff's Amended Petition And Pleadings For "Good Cause" Reasons on the recusal issue, so there is no confusion with Plaintiffs Petition And Pleadings & no appearance of "conflict of interest" for all parties in both lawsuits before this Honorable Judge Barnett Walker & County Court at Law No. 2 as uncontrolled internal assignment that could have easily been sent to another Court & Judge.

Darlene C. Amrhein

Respectfully submitted,

Darlene C. Amrhein, Plaintiff, Pro Se

11/27/17

VERIFICATION / AFFIDAVIT

CASE NO. 02-02654-2017

STATE OF TEXAS

COUNTY OF COLLIN

BEFORE ME, the undersigned Plaintiff / Appellant Darlene C. Balistreri-Amrhein, who swore in her capacity & individually on her sworn oath, deposed and said she prepared and signed Plaintiff's Motion For Leave To File Plaintiff's Supplement Petition & Pleadings Timely.

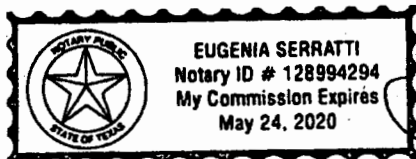
This information as referenced and stated within is true and correct and of Darlene C. Balistreri-Amrhein's own personal knowledge to the best of her ability & documented. This state and or federal filing is for purpose of "due process," fairness, Justice under State and Federal Laws & presented in applicable Court attached as sited for consideration of this Court filing.

Darlene C. Balistreri-Amrhein

Darlene C. Balistreri-Amrhein, Plaintiff, Pro Se and

SUBSCRIBED AND SWORN TO ME, BEFORE ME: ON 11/21, 2017 to
certify which witness my hand and official seal.

SEAL:



Commission Expires May 24, 2020

EUGENIA SERRATTI

Notary Public of Texas (Printed Name)

Eugenia Serratti

Notary Public of Texas (Signature)

CERTIFICATE OF SERVICE

A true and correct copy of Plaintiffs' Motion For Leave From The Court To File Plaintiff's Amended & Supplement Petition And Pleadings For "Good Cause" Reasons was served in person or by Certified Mail through the United States Post Office on Nov. 27, 2017 to the following:

Collin County Courthouse & County Court at Law In Person
Collin County District Clerk's Office
2100 Bloomdale Rd.
McKinney, TX 75071

Wormington Law Firm (W & B) Certified # 7017 0530 0000 6416 6167
212 East Virginia Street
McKinney, TX. 75069

Attorney Lennie Bollinger Certified # 7017 0530 0000 6416 6167
212 East Virginia Street
McKinney, TX. 75069

Respectfully submitted,



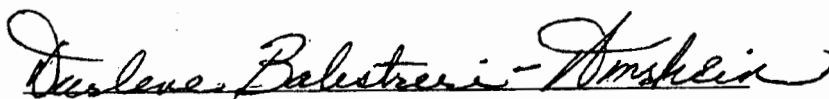
Darlene Balistreri-Amrhein, Plaintiff, Pro Se and
Representative for Deceased Anthony J. Balistreri

11/27/17

CERTIFICATE OF CONFERENCE

There was no conference Plaintiffs' Motion For Leave From The Court To File Plaintiff's Amended & Supplement Petition And Pleadings For "Good Cause" Reasons with Defendants Bollinger & Wormington due to prepared during Thanksgiving weekend when no one was available & filed early Nov. 27, 2017 as Courthouse was closed for holiday too.

Respectfully submitted,

A handwritten signature in cursive script, reading "Darlene Balistreri-Amrhein".

Darlene Balistreri-Amrhein, Plaintiff, Pro Se
& Representative for Deceased Anthony J. Balistreri

11/27/17

*original***CAUSE NO. 02-02654-2017**

DARLENE C. AMRHEIN, et al

COUNTY COURT AT LAW

Plaintiffs,

V.

NO. TWO (JUDGE WALKER)

ATTORNEY LENNIE F. BOLLINGER, AND
WORMINTON & BOLLINGER LAW FIRM
Defendants,

COLLIN COUNTY TEXAS

FILED
COUNTY COURT AT LAW
2017 NOV 27 AM 11:00
CLERK
COLLIN COUNTY TEXAS
BY: M. M. DEPIITY**PLAINTIFF'S AMENDED & SUPPLEMENT PETITION AND PLEADINGS**

COMES NOW, Plaintiff Darlene C. Amrhein & Representative for (Deceased) Anthony Balistreri, hereafter referred to as Plaintiffs complaining of Wormington Law Firm, & Attorney Lennie Bollinger, et al, hereafter referred to as "Defendant & Defendants," to file Plaintiff's Amended Supplement Petition And Pleadings in above styled & numbered lawsuit for "good cause" reasons to prevent confusion as to why Plaintiff filed this lawsuit with "clarifications" & Exhibits A,B as follows:

I. History & "Good Cause" Reasons for Amended Petition

1. This above Cause No 02-02654-2017 was filed on Oct. 26, 2017 & assigned to County Court at Law No. 2 Honorable Judge Barnett Walker presiding;
2. On November 15, 2017 Plaintiff received the Defendants Answer & General Denial with statements raising confusion on stated claims, headings, etc. so this Amended Petition And Pleadings is to clear up Defendants confusion & any errors;

II. Causes of Actions, Stated Claims In This Lawsuit & Associated Elements

The following are Plaintiff's stated claims against Attorney Lennie Bollinger and Wormington And Bollinger Law Firm in this lawsuit for both cited cases:

- III. **Lawsuit # 1** aka David Schroeder Lawsuit represented by Defendants & losses for 2 years, 8 months, 17 days or 993 days from March 10, 2015 to present for theft, conversion of property, frauds, unpaid rent for 5 months & refusal to

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return & pay Plaintiff's property since March 15, 2015 for 993 days;

IV. Lawsuit # 2 aka Anthony Balistreri held file for 5 month knowing statute of limitations was expiring contrary to 30 day false claim for examination of case;

V. FRAUD DEFINED - ELEMENTS OF COMMON-LAW TORT CLAIMS:

The elements of a cause of action for fraud are:

- (1) that a material representation was made;
- (2) the representation was false;
- (3) when the representation was made, the speaker knew it was false or made it recklessly without any knowledge of the truth and as a positive assertion;
- (4) the speaker made the representation with the intent that the other party should act upon it;
- (5) the party acted in reliance on the representation; and
- (6) the party thereby suffered injury. (Exhibits A, B);

In re FirstMerit Bank, N.A., 52 S.W.3d 749, 758 (Tex. 2001). Ernst & Young, L.L.P. v. Pac. Mut. Life Ins. Co., 51 S.W.3d 573, 577 (Tex. 2001); Hartford Fire Ins. Co. v. C. Springs 300, Ltd., 287 S.W. 3d 771, 781 (Tex. App.—Houston [1st Dist.] 2009, pet. denied); Ernst & Young, L.L.P. v. Pac. Mut. Life Ins. Co., 51 S.W.3d 573, 577 (Tex. 2001); Hartford Fire Ins. Co. v. C. Springs 300, Ltd., 287 S.W.3d 771, 781 (Tex. App.Houston [1st Dist.] 2009, pet. denied); (Exhibits A,B)

VI. Common Law Fraud Causes of Action & Stated Claims

The Nine Elements of Common Law Fraud:

In the United States, common law generally identifies nine elements needed to establish fraud:

- (1) a representation of fact;
- (2) its falsity;
- (3) its materiality;
- (4) the representer's knowledge of its falsity or ignorance of its truth;
- (5) the representer's intent that it should be acted upon by the person in the manner reasonably contemplated;
- (6) the injured party's ignorance of its falsity;
- (7) the injured party's reliance on its truth;
- (8) the injured party's right to rely thereon; and
- (9) the injured party's consequent and proximate injury. (Exhibits A, B);

See, e.g., Strategic Diversity, Inc. v. Alchemix Corp., 666 F.3d 1197, 1210 n.3, 2012 U.S. App. LEXIS 1175, at *25 n.3 (9th Cir. 2012) (quoting Staheli v. Kauffman, 122 Ariz. 380, 383, 595

P.2d 172, 175 (1979)); Rice v. McAlister, 268 Ore. 125, 128, 519 P.2d 1263, 1265 (1975); Heitman v. Brown Grp., Inc., 638 S.W.2d 316, 319, 1982 Mo. App. LEXIS 3159, at *4 (Mo. Ct. App. 1982); Prince v. Bear River Mut. Ins. Co., 2002 UT 68, ¶ 41, 56 P.3d 524, 536-37 (Utah 2002);

Fraud is founded upon a misrepresentation of past or present fact. Courts have defined fraud as trickery, deceit, intentional misrepresentation, concealment, or nondisclosure for the purpose of inducing another to part with something of value. It also includes false representation of a matter of fact by words or conduct or by concealment of what should have been disclosed that deceives or is intended to deceive another so he shall act upon it to his legal injury. See In re E.P., 185 S.W.3d 908 (Tex. App. Austin 2006);

VII. Negligence Causes of Actions & Stated Claims

1. **Duty** arises when the law recognizes a relationship between the defendant and the plaintiff, and due to this relationship, the defendant is obligated to act in a certain manner toward the plaintiff. A judge, rather than a jury, ordinarily determines whether a defendant owed a duty of care to a plaintiff; (Exhibits A B);
2. **Breach of Duty** - A defendant is liable for negligence when the defendant breaches the duty that the defendant owes to the plaintiff; (Exhibits A, B);
3. **Cause in Fact** "but-for" causation. In other words, but for the defendant's actions, the plaintiff's injury would not have occurred; (Exhibits A B);
4. **Proximate Cause** A defendant in a negligence case is only responsible for those harms defendant could have foreseen through his or her actions;(exhibits A, B);
5. **Damages** plaintiff in a negligence case must prove a legally recognized harm, usually in the form of physical injury to a person or to property. It is not enough that the defendant failed to exercise reasonable care. The failure to exercise reasonable care must result in actual damages to a person to whom the defendant owed a duty of care;
6. The most common cause of action presented in legal malpractice claims is a negligence claim. To prevail on a negligence claim, the client must prove that the attorney did not use a reasonable degree of care. In other words, the client must prove that the attorney took some action that a prudent attorney would not have

taken or that the attorney failed to take some action that a prudent attorney would have taken;

7. There are many ways an attorney may be negligent. For example, if an attorney gives wrong advice to the client, the attorney may be negligent. If an attorney fails to file public documents, such as a lawsuit or a deed, on time or in the right place, the attorney may be negligent. Or, if the attorney acts to create a conflict between him and his client, the attorney may be negligent;
8. In Texas, a client must use expert witnesses to establish the reasonable degree of care the attorney should have used. Generally, the expert witness must be an attorney practicing in the same practice area and same locale as the attorney being sued;

VIII. Negligent Misrepresentations Cause of Action & Stated Claims

A negligent misrepresentation cause of action has four elements:

- (1) the representation is made by a defendant in the course of his business, or in a transaction in which he has a pecuniary interest, (Exhibits A, B);
- (2) the defendant supplies "false information" for the guidance of others in their business,
- (3) the defendant did not exercise reasonable care or competence in obtaining or communicating the information, and (Exhibits A, B);
- (4) the plaintiff suffers pecuniary loss by justifiably relying on the representation.
Henry Schein, Inc. v. Stromboe, 102 S.W.3d 675, 686 n.24 (Tex. 2002).

The false statement must refer to a past or existing fact. A false statement is negligent where the speaker has no reasonable grounds for believing it is true.

False statement must be made with intent of convincing plaintiff to do something & false representations in the defendant's plans, which the plaintiff relied on; (Exhibits A,B);

IX. "Bad Faith" Intent Cause of Action & Stated Claims

Intentional dishonest act by not fulfilling legal or contractual obligations, misleading another, entering into an agreement without the intention or means to fulfill it, or violating basic standards of honesty in dealing with others. Most states recognize what is called "implied covenant of good faith and fair dealing" which is breached by acts of bad faith, for which a lawsuit may be brought (filed); (Exhibits A, B);

X. Lack of Reasonable Care, Duty of Care & Reckless Stated Claims

In tort law, a **duty of care** is a **legal obligation** which is imposed on an individual requiring adherence to a **standard** of **reasonable** care while performing any acts that could foreseeably harm others. It is the first element that must be established to proceed with an action in **negligence**. The claimant must **be able to show** a duty of care imposed by law which the defendant has breached. In turn, breaching a duty may subject an individual to liability. (Exhibits A, B & more to come.);

The duty of care may be imposed *by operation of law* between individuals with no current direct relationship (familial or contractual or otherwise), but eventually become related in some manner, as defined by **common law** (meaning case law).

Duty of care may be considered a formalization of the **social contract**, the implicit responsibilities held by individuals towards others within **society**. It is not a requirement that a duty of care be defined by law, though it will often develop through jurisprudence of **common law**. (Exhibits A, B)

XI. Lack of Due Diligence Cause of Action Stated Claims

Due diligence in broad sense refers to level of judgement, care, prudence, determination, and activity that a person would reasonably be expected under particular circumstances;

XII. TEXAS RULES OF PROFESSIONAL CONDUCT CAUSE OF ACTION:

1. A lawyer is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice. A consequent obligation of lawyers is to maintain highest standards of ethical conduct; (Exhibits A, B);
2. As a representative of clients, a lawyer performs various functions. As advisor, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications; (Exhibits A, B);
3. In all professional functions, a lawyer should zealously pursue clients' interests within the bounds of the law. In doing so, a lawyer should be competent, prompt and diligent;
4. A lawyer should maintain communication with a client concerning the representation;
5. A lawyer should keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by the Texas Disciplinary Rules of Professional Conduct or other law; (Exhibits A, B) (Will be reported- formal complaints.)

6. A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs;
7. While it is a lawyer's duty, when necessary, to challenge official action, it's lawyer's duty to uphold legal process; (Exhibits A, B) (Defendants upheld their interests only.);
8. As a public citizen, a lawyer should seek improvement of the law; (Fraudsters !)
9. **Neglect** of these responsibilities compromises the independence of the profession and the public interest which it serves; (Exhibits A, B, Defendants are scammers.);
10. **Competent and Diligent Representation** - Having accepted employment, a lawyer should act with competence, commitment and dedication to the interest of the client and with zeal in advocacy upon the client's behalf; (Exhibits A, B);
11. **A lawyer should feel a moral or professional obligation** to pursue a matter on behalf of a client with reasonable diligence and promptness despite opposition, obstruction or personal inconvenience to the lawyer;
12. **Neglect** - Perhaps no professional shortcoming is more widely resented than procrastination; (Exhibits A, B);
13. **A client's interests often can be adversely affected** by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed; (Exhibits A, B);
14. **Because delay can cause a client needless anxiety** and undermine confidence in the lawyer's trustworthiness, there is a duty to communicate reasonably with clients;
15. **Maintaining Competence** - Because of vital role of lawyers in legal process, each lawyer should strive to become & remain proficient and competent in the practice of law;
16. **Scope of Representation** - Both lawyer and client have authority and responsibility in the objectives and means of representation; (Defendants / Attorneys silent for months.)
17. **The client has ultimate authority** to determine the objectives to be served by legal representation, within the limits imposed by law, the lawyer's professional obligations, and the agreed scope of representation; (Exhibits A, B) (Client was ignored for months.);
18. **A client also has a right to consult** with the lawyer about general methods to be used in pursuing those objectives; (Exhibits A, B); (Defendants / Attorneys fraudsters.);
19. **The lawyer should assume responsibility** for means by which the client's objectives are best achieved; (Never had clients interest - \$200 scam on \$13,208.00 claim);
20. **A lawyer should consult with client** concerning any such proposal, and generally it is for the client to decide whether or not to accept it; (Defendants breached all.)

21. **Client** -The usual attorney-client relationship is established and maintained by consenting adults who possess the legal capacity to agree to the relationship;
22. **Communication** (a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information. (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation; (Rule 1.03) (Exhibits A, B);
23. **Confidentiality Generally** Both the fiduciary relationship existing between lawyer and client and the proper functioning of the legal system require the preservation by the lawyer of confidential information of one who has employed or sought to employ lawyer;
24. **The principle of confidentiality** is given effect not only in the Texas Disciplinary Rules of Professional Conduct, but also in law of evidence regarding attorney-client privilege and in the law of agency; (Defendants / Attorneys do not follow laws & rules.);
25. **Disclosure for Benefit of Client** - A lawyer may be expressly authorized to make disclosures to carry out the representation and generally is recognized as having implied-in-fact authority to make disclosures about a client when appropriate in carrying out the representation to the extent that the client's instructions do not limit that authority;
26. **Use of Information** - Following sound principles of agency law, subparagraphs (b)(2) and (4) subject a lawyer to discipline for using information relating to the representation in a manner disadvantageous to the client or beneficial to the lawyer or a third person, absent the informed consent of the client; (Exhibits A, B);
27. **The duty not to misuse client information** continues after the client-lawyer relationship has terminated; Dec. 2016 tried to get Plaintiff to settle for \$200 on \$13,200;
28. **Conflict Charged by an Opposing Party** - Raising questions of conflict of interest is primarily the responsibility of the lawyer undertaking the representation. In litigation, a court may raise the question when there is reason to infer that the lawyer has neglected the responsibility; (Exhibits A, B); (Jury Trial to decide.);
29. **Responsibilities of a Partner or Supervisory Lawyer** - A lawyer shall be subject to discipline because of another lawyer's violation of these rules of professional conduct if:
- (a) The lawyer is a partner or supervising lawyer and orders, encourages, or knowingly permits the conduct involved; or (Wormington is a partner to Bollinger & Law Firm.);
- (b) The lawyer is a partner in the law firm in which the other lawyer practices, is the general counsel of a government agency's legal department in which the other lawyer is employed, or has direct supervisory authority over the other lawyer, and with knowledge

of the other lawyer's violation of these rules knowingly fails to take reasonable remedial action to avoid or mitigate the consequences of the other lawyer's violation. (Rule 5.01)

- Texas Government Code ch. 81 subchapter E - Discusses the discipline of attorneys.
- Texas Government Code ch. 82 subchapter C - Discusses attorney conduct.
- Texas Disciplinary Rules Of Professional Conduct [PDF] - The rules of conduct that all Texas attorneys must follow from the Texas State Bar.
- Texas Rules Of Disciplinary Procedure [PDF] - From the State Bar: These rules establish the procedures that must be followed in a lawyer discipline case, including how disciplinary system works & how cases handled.

XIII. Fiduciary Duty Cause of Action Stated Claims

30. Lawyers also owe their clients a fiduciary duty. In Texas, lawyers are held to the highest standards of ethical conduct in dealing with their clients;

31. A lawyer must conduct his or her business with inveterate honesty and loyalty, always keeping the client's best interest in mind; (Exhibits A, B);

32. Lawyer's fiduciary duty requires that he fully disclose to client all material facts, that the lawyer refrain from self-dealing, and that he act in abundant good faith, which requires absolute candor, openness, honesty & absence of any concealment or deception;

33. When lawyer breaches his fiduciary duty, he may be required to forfeit some or all of his fees, to compensating client for any damages as result of breach of fiduciary duty;

34. A fiduciary duty is an obligation to act in the best interest of another party;

35. A fiduciary obligation exists whenever the relationship with the client involves a special trust, confidence, and reliance on the fiduciary to exercise his discretion or expertise in acting for the client. The fiduciary must knowingly accept that trust and confidence to exercise his expertise and discretion to act on the client's behalf;

36. When one person does agree to act for another in a fiduciary relationship, the law forbids the fiduciary from acting in any manner adverse or contrary to the interests of the client, or from acting for his own benefit in relation to the subject matter.

37. The client is entitled to best efforts of fiduciary on his behalf & fiduciary must exercise all of skill, care and diligence at his disposal when acting on behalf of the client.

38. A person acting in a fiduciary capacity is held to a high standard of honesty and full disclosure in regard to client & must not obtain personal benefit at expense of the client;

39. Breach of Fiduciary Duty

An attorney is a fiduciary of his client, and the attorney owes the client a duty of utmost good faith. As part of this duty, the attorney has several obligations to the client. For example, the attorney must place the interests of the client above the interests of the

attorney; the attorney must make full and fair disclosure about the representation; and the attorney cannot take advantage of his position to gain a profit at the expense of his client. Fiduciary duty cases arise in several situations, but are most common in cases where there may be a conflict of interest involving the attorney and client. These potential conflicts arise in numerous ways. For example, in one leading case, an attorney represented several clients who were injured in one incident. The case eventually settled. After settlement, the clients claimed that while the settlement was in the attorney's best interest (who represented the clients on a contingent fee basis) and the interest of some other clients, it was not in the interest of all the clients. The Texas Supreme Court allowed the clients to sue the attorney for his breach of fiduciary duties; (Exhibits A, B)

40. Conflict Avoidance (Conflict of Interest With David Schroeder)

When you represent a client, you must avoid situations that create a conflict of interest. If you represent a client in business matters, taking on another client with opposing interests -- competing for the same contract, for instance -- breaches fiduciary duty. Self-dealing -- making a profit from the way you manage a client's assets -- would also be a breach. Even appearance of a conflict can get you into trouble; (Conflict with Schroeder)

41. Competence (Incompetent Defendants/ Attorneys & illegal scams!)

The cornerstones of fiduciary duty are sometimes called "the four c's," one of which is "competence." California, for example, defines competence as using your legal knowledge and skill on behalf of your client. You must also approach your work with all the thoroughness and preparation necessary to protect your client's interest. If you take on a job outside of your skill set, you should make up for it with a crash course in the subject, or by consulting with a more experienced attorney;

42. Communication (No communication from Jan. 1, 2017 to May, 2017)

Ultimately, your client has the right to make decisions about his affairs -- whether she wants to fight a case in court, accept a settlement, sign a contract or walk away. You have to provide her with enough information to make good decisions, which requires regular, informative communication. You tell her the facts of the case and the advantages of different choices, and she decides on the course to take. What constitutes adequate communication depends, in part, on how much legal knowledge your client has;

43. Confidentiality (Released Plaintiff's information For Schroeder's Benefit.)

To employ you, clients often have to trust you with confidential information -- that would embarrass them or get them in legal trouble if it were made public. Confidentiality is

essential to a fiduciary relationship. Unless your client gives you permission, you can't reveal confidential information, with a few special exceptions. If protecting your client's life or well-being requires revealing something he told you in confidence, that could be acceptable, for example; (Never gave permission information.); (Sexual assault.)

XIV. Legal Malpractice Causes of Actions & Stated Claims

44. Legal Malpractice is the term for negligence, breach of fiduciary duty, or breach of contract by an attorney that causes harm to his or her client; (Exhibits A, B)

45. This occurs when an attorney acts in his or her own interest instead of fulfilling a duty to act in the client's interest, to the detriment of the client; (Exhibits A, B);

46. A claim for legal malpractice may also arise when an attorney breaches the contract pursuant to which the client is represented; (Exhibits A, B) (Needs loss of TX. licenses.);

47. A common basis for a legal malpractice claim arises when an attorney misses a deadline for filing a paper with the court or serving a paper on another party, and that error is irrevocably and incurably fatal to the client's case; (Exhibits A, B);

48. This situation normally arises with running of statute of limitations (where client timely reported potential basis for a lawsuit to the attorney & subsequently authorized its filing, but attorney failed to timely prepare & file complaint) but can also arise in context of failing to respond to dispositive motions filed by opponent or failing to timely file notice of appeal or refuse to turn over file to seek other legal counsel timely;

49. Legal malpractice, also referred to as attorney malpractice, is a civil suit that a client can bring when an attorney breaches his or her legal duty; (Exhibits A, B);

50. In order to prevail in a legal malpractice civil suit, the burden is on the plaintiff to prove required elements of the case; (Exhibits A, B);

51. Those required elements are set under state tort law in jurisdiction where malpractice occurred; (Exhibits A, B) (Scam artists under color of law.);

52. Generally, all cases of legal malpractice involve four elements: duty, breach, causation and damages; (See Exhibit A filed May 15, 2017 Proof about Attorneys.)

53. Legal malpractice is defined under the law as any situation where a lawyer breaches a legal duty owed to a client and where that breach led to or caused quantifiable damages;

54. This means the client will need to prove that the attorney intentionally or negligently did something no reasonably competent attorney would have done; (Exhibits A, B);
Withdrawing after frauds & wrong doing does not insulate Defendants from lawsuit; In this case it shows the amount of destruction in stopping Dad's lawsuit & frauds in suit #1;

55. If the lawyer's actions were a violation of the Professional Rules of Conduct that govern attorneys or if the legal work was simply shoddy and careless, the lawyer can be considered in the eyes of the law to have been negligent; (Exhibits A,B);

Negligence by Omission or Commission:

56. Successful legal malpractice case requires that attorney actually commit negligent act;

57. Attorney negligence can be an act of commission or omission;

58. Common examples of attorney negligence are failure to file timely briefs or papers required by the court, failure to appear for hearings, or failure to keep a client's best interest front and center;

59. Those are all acts of *omission*;

60. Failing to keep a client's best interest is also known as a breach of the attorney's fiduciary duty, and it essentially means that the attorney breached the relationship of trust created by his retention;

61. A case of legal malpractice may also arise if an attorney breaks the law;(Exhibit A,B)

62. Examples of this type of malpractice include improper handling of money paid to an attorney and lying to the court. These are examples of negligence by *commission*;

Proving Damages:

63. If an attorney is negligent through commission or omission, the next thing to determine is whether this negligence directly caused the client to incur some kind of actual damage; (Exhibits A, B);

64. The client will need to show that the outcome would have been different had the lawyer not been negligent;

65. This is difficult to prove because it can be nearly impossible to predict, in many cases, what *would have* happened in the future;

66. If the lawyer was careless, missed evidence and didn't prepare properly for trial, he or she may have lost the case;

67. However, can the client prove he would have won if the lawyer had been better prepared & how much in damages were lost;

68. Unless an attorney was actually negligent in representation or breached a fiduciary duty, a malpractice case will be successful;

//.

69. A less common basis is where an attorney misses a deadline and the error, while not fatal in and of itself to a claim or defense, still forces the client to spend far more to resolve the case than would have been necessary otherwise;

70. The file belongs to the client, not the lawyer, so you are entitled to it upon request. Make sure you get the original file — not a copy;

71. These claims may include negligence, breach of fiduciary duty, breach of contract, fraud, violations of the Texas Deceptive Trade Practices Act, conversion, and other related claims;

72. Depending on the type of claim, there may be a different measure of damages or recovery as allowed;

73. Many of these claims also have different statutes of limitations, and different rules determining when the statute of limitations begins to run on each claim;

74. In Texas, a legal malpractice action is based on negligence;

75. Lawyers are held to the standard of care of a reasonably prudent attorney;

76. A lawyer is negligent if he fails to act as an attorney of ordinary care would have acted under the same or similar circumstances;

77. **Duty** - Like any negligence claim, an action sounding in legal malpractice begins with the question of whether the attorney owed the plaintiff a duty of care.

78. This element is critical in two ways – establishing the presence of a relationship with the client; and establishing the lack of a relationship with others.

79. Typically, attorneys have entered into a retainer agreement with their clients;

80. Execution of a formal retainer agreement is not a prerequisite to establish duty as courts will look to words & actions of parties to determine existence of relationship;

81. Payment of a fee is not a requirement to establish existence of an attorney-client relationship sufficient to create a duty of care;

82. The fact that no retainer was signed &/or the fact that no fee was paid does not necessarily insulate an attorney from a legal malpractice claim; (Exhibits A, B);

83. The duty/privity requirement ensures that an attorney's obligations toward his client are unaffected by worrying about impact of his representation to others.

84. It serves as protection for attorneys from defamation suits brought by adversaries or others as statements made in the course of litigation are entitled to absolute privilege;

85. Attorneys are afforded absolute protection with regard to relevant statements made in judicial or quasi-judicial proceedings so they may speak freely and zealously represent their clients without fear of reprisal or financial hazard;

86. Privity does not provide an absolute shield for an attorney from all liability from others & neither does "general denial" & multiple exceptions for Appeal;

87. For example, an attorney may be liable to a non-client if he perpetrated a fraud or assisted his client in committing a fraud;

88. Once privity or a relationship sufficiently approaching privity can be established, plaintiff must prove the remaining elements of a legal malpractice claim: (1) breach of the standard of care; (2) proximate causation; and (3) damages suffered as a result of the malpractice; (Exhibits A, B);

89. **Breach** - An attorney has breached the standard of care if he failed to exercise the ordinary reasonable skill and knowledge commonly possessed by a member of the legal profession; (Exhibits A, B);

90. **Proving this element** typically requires expert testimony unless the conduct is so blatantly improper that a juror could easily determine that it fell below any acceptable standard (e.g., failing to timely file suit in violation of the statute of limitations);

91. **Proximate Causation** - To establish this element of legal malpractice, plaintiff must prove that but for attorney's malpractice, he would have prevailed in underlying case;

92. **Damages** - Even if plaintiff has established the attorney owed him a duty, breached that duty by failing to exercise the ordinary skill and knowledge possessed by a member of the legal profession, and but for attorney's negligence he would have prevailed in the underlying case, a plaintiff must also prove that he has suffered economic damages as a result of this negligence; (Exhibits A, B);

93. **The amount of money** a jury would have awarded in the underlying matter does not end the inquiry. Critical to the calculation of damages in a legal malpractice action is the issue of collectability. This draws an important distinction between the amount of money that could potentially have been awarded and the amount of money which could or would have been recovered by the plaintiff;

XV. Breach of Implied & Expressed Contract (Promise)

94. **Express contracts consist of agreements** in which the terms are stated by the parties. The terms may be stated orally or in writing;

95. **The contract as a whole** must reflect the intention of the parties. As a general rule, if an express contract between the parties is established, a contract embracing the

identical subject cannot be implied in fact, as the law will not normally imply a substitute promise or contract for an express contract of the parties; (Exhibits A, B);

96. Contracts implied in fact are inferred from the facts and circumstances of the case or the conduct of the parties; (Exhibits A, B);

97. However, such contracts are not formally or explicitly stated in words;

98. The law makes no distinction between contracts created by words and those created by conduct; (Exhibits A, B);

99. Thus, a contract implied in fact is just as binding as an express contracts that arises from the parties' declared intentions, with the only difference being that for contracts implied in fact courts will infer the parties' intentions from their business relations and course of dealings; (Exhibits A, B)

100. Whereas courts apply the same legal principles to express contracts and contracts implied in fact, a different body of principles is applied to contracts implied in law.

101. Also known as quasi-contracts, contracts implied in law are agreements imposed by courts despite the absence of at least one element essential to the formation of a binding agreement;

102. The law creates these types of fictitious agreements to prevent one party from being unjustly enriched at the expense of another;

103. An **implied-in-fact contract** is a form of an implied contract formed by non-verbal conduct, rather than by explicit words; (Exhibits A, B);

104. The United States Supreme Court has defined it as "an agreement 'implied in fact'" as "founded upon a meeting of minds, which, although not embodied in an express contract, is inferred, as a fact, from conduct of the parties showing, in the light of the surrounding circumstances, their tacit understanding;"

105. Although the parties may not have exchanged words of agreement, their conduct may indicate that an agreement existed;

106. Generally, an implied contract has the same legal force as an express contract;

107. Any potential or actual conflict will limit or affect the representation of a client. Therefore, lawyers must avoid conflicts of interest; (Conflicts with David Schroeder.);

108. If it appears that the lawyer has stopped working on a case altogether, this may amount to legal malpractice. An attorney has a duty of due diligence, which means that the attorney must work promptly and diligently on a case until it reaches completion. The failure to do so violates the attorney's duty to a client; (Exhibits A, B);

109. A lawyer does have a duty to act with competence. A lawyer must have the legal knowledge and skill necessary to represent a client with zealous advocacy. If a lawyer falls below this standard and it can be established that the lawyer's actions amounted to incompetence, legal malpractice may have occurred; (Exhibits A, B);

110. Disciplinable Offenses, Unethical Acts, Causes of Action & Stated Claims:

- **Failing to communicate with the client.** Lawyers have a duty to keep their clients reasonably informed about the status of their cases, to respond promptly to requests for information, and to consult with their clients about important decisions in their cases (for example, whether to accept a settlement offer);
- **Not returning the client's documents.** A client's file is generally considered to be the property of the client. When a client fires a lawyer and asks for the file, the lawyer must promptly return it. In some states, such as California, the lawyer must return the file even if attorneys' fees haven't been paid in full;(Missing file items);
- **Lawyer incompetence.** Lawyers must have the knowledge and experience to competently handle any case that they take on. They must also be sufficiently prepared to handle matters that come up in your case, from settlement negotiations to trial;
- **Conflicts of interest.** Lawyers owe a duty of loyalty to their clients, which means they must act with the client's best interests in mind. This includes avoiding situations that would create a conflict of interest—such as representing two clients on opposite sides of the same case or taking on a new client who wants to sue an existing client;
- **Financial matters.** Misplacing or stealing client funds, refusing to hand over money owed to a client, or charging clearly excessive fees are all ethics violations. However, a simple dispute over how much you owe your lawyer in legal fees is generally not an ethics matter. Most of the time, these disputes are resolved through fee arbitration—an informal process where a neutral third party hears from both sides and makes a decision;

111. Malpractice lawsuit is generally the way to go. Among other things, you must show that your lawyer made a significant mistake in your case and that you suffered a monetary loss because of it. In other words, you must show that you would have won your case—or received more in compensation—had it not been for your lawyer's mistake; **Note :** Plaintiff Amrhein filed in the lower Justice Court about Defendant Attorneys misconduct to keep a court record of all proof & behaviors, while violating laws, engaging in “conflict of interest, bias, prejudice, retaliation scam;

Failing to return Dad's file for 5 months, promised 30 days knowing expiring statute of limitations on Sept 24, 2015 with return Nov. 23, 2015 is Malpractice !

15.

112. Deceptive Trade Practices Act

The Texas Deceptive Trade Practices Act regulates most business activities in Texas, including the conduct of attorneys. For a client to prevail on a DTPA claim, the client must prove (1) that he was a "consumer" as defined in the DTPA and (2) that the attorney took some action that violated the statute and caused the client damage.

To prove that he was a "consumer," the client must prove that he sought or acquired the attorney's services through a purchase. Obviously, any person or company directly hiring an attorney or firm qualifies as a consumer. However, even if a person or company does not purchase the services, they may still be consumers if they receive legal advice that was paid for by someone else. For example, Texas courts have held that a partner may be a consumer of legal services purchased by a partnership, an employee may be a consumer of legal services purchased by an employer, and a wife may be a consumer of legal services purchased by her husband. On the other hand, Texas courts have also been clear that the beneficiaries under a will are not consumers under the DTPA.

To be a consumer, the client (or someone) must purchase the services of the attorney. As a result, while a client may pursue a negligence claim against an attorney that gives him wrong free advice, the same client could not pursue a DTPA claim.

Once the client proves he is a consumer, he must also prove that he was harmed by an attorney's violation of the DTPA. The DTPA provides a list of over twenty types of conduct that are forbidden. The items most applicable to claims against attorneys are the prohibitions against (1) making statements that the attorney's services may have benefits that they do not have; (2) making statements that the attorney's services are of a particular quality or standard when they are not; (3) representing that an agreement has rights, remedies, or obligations when it does not; (4) failing to disclose information concerning the services which was known at the time of the services if the failure was intended to induce the client into entering a transaction he would not have entered had the information been disclosed; and (5) engaging in any action that is unconscionable.

DTPA cases most often arise when an attorney is overstating his abilities to his client. For example, an attorney may be liable for telling the client he is board certified in a specialty, when in fact he is not. Similarly, an attorney may be liable for telling the client he had handled certain types of claims when he had not. Or, an attorney's conduct may be unconscionable if he tells the client he had taken some action, such as filing a lawsuit, when he had not.

In 1995, the Texas legislature amended the DTPA to say that clients could not sue under the DTPA for misrepresentations or other conduct that can be characterized as the advice, judgment or opinion of the attorney. What constitutes advice and opinion is still being determined by the courts. Clearly, an attorney could still be sued for the actions described above, but there are still questions about how much further the exemptions extend;

Note : Plaintiff Amrhein filed in the lower Justice Court about Defendant Attorneys misconduct to keep a court record of all proof & behaviors, while violating laws, engaging in "conflict of interest, bias, prejudice, retaliation scam;

113. Fraud

Attorneys may also be sued for committing fraud on their clients. An attorney commits fraud if he makes a misrepresentation that he knows is false with the intent that the client act on it and the client eventually acts on it. An attorney may also commit fraud by failing to disclose or concealing facts if the attorney knows the client is unaware of the facts and the attorney intends to induce the client into taking some action by concealing the facts. When an attorney breaches his fiduciary duty or violates the Deceptive Trade Practices Act, the attorney's conduct often constitutes fraud; (Exhibits A, B);

114. Negligent Misrepresentation

Attorneys may occasionally be liable to non-clients if the attorney makes a false misrepresentation that the attorney knows will be relied upon by the non-client.

115. Who May Sue an Attorney?

Three categories of people may sue an attorney. First, a person may sue an attorney when there is an attorney-client relationship between the parties. To establish an attorney-client relationship, the client must show that the attorney agreed to represent the client or provide advice.

116. If there is no explicit contract between an attorney or a client, the client may still prove the attorney agreed to represent him by showing the attorneys' conduct.

117. A client need not pay the attorney to establish an attorney-client relationship. Second, even if the attorney never agreed to represent a party, the attorney may still be liable if he fails to advise that he is not representing the party where the circumstances lead the party to believe the attorney is representing him;

118. Third, an attorney may be held liable for making a false representation of fact to a non-client if the non-client justifiably relies on the representation and the attorney knows that the non-client will rely on the information. These cases most often arise in cases where attorneys are asked to provide opinion letters;

119. Statute of Limitations

The statute of limitations for malpractice claims based on negligence, breach of fiduciary duty, and violations of the DTPA is two years. As a result, a client must generally sue an attorney within two years of the date of the malpractice or the client loses his claim. However, if the client is unable to discover the attorney's malpractice, then the discovery rule applies. In that case, the statute of limitations is extended and the client must sue within two years of the date he discovers the malpractice or the date he should have discovered the malpractice if he had exercised reasonable care and diligence.

The general rule also has an exception that occurs for malpractice that occurs in a lawsuit. In that case, the two year period for the negligence and breach of fiduciary duty claims does not begin to run until the lawsuit, including all appeals, is completed. This delay occurs even if the client fired the lawyer he intends later to sue. This tolling or delay period does not apply to DTPA claims.

XVI. Defendants' Misconduct Cause of Action & Stated Claims:

Lawsuit # 1: Attorneys Misconduct by Both Defendants:

- 1) Made false statements about filed lawsuit, competence, education, skill & diligence knowing these statements were false, reckless, made with "bad faith" intent to cover up & conspire on misconduct & illegal acts affecting lawsuit # 2 as of Nov. 23, 2015;
- 2) Attorneys knew Plaintiff would act on their false information that was relied on causing knowingly consequent & approximate injury, harms, damages & further injuries to Plaintiff in two lawsuits & knows Plaintiff was ignorant to these material fact & truth;
- 3) Attorneys committed fraud of past & present facts; (Exhibits A, B)
- 4) Attorneys engaged in deceit, trickery, intentional misrepresentations, concealments, nondisclosures, false representations of matter of fact by words & conduct, acted with intent to deceive & conceal to act upon against laws, rules & legal injuries to Plaintiff;
- 5) Attorneys had a duty owed to Plaintiff, breach their duty owed to Plaintiff, but for the Attorneys causes Plaintiff's injuries would not occurred, delays, expenses & damages;
- 6) Attorneys refused to make additions & corrections to lawsuit # 1 by Plaintiff instructs;
- 7) Attorneys engaged in negligence, negligent misrepresentations, breach of fiduciary duty, breach of implied & expressed contract by words & conduct, "bad faith" intent, extreme incompetence, no due diligence, made a mess of lawsuit & walked away, etc.;
- 8) Attorneys used unreasonable Care, violated duty of care, & was "reckless by words & conduct in Lawsuit # 1 & as representation of Plaintiff Amrhein in this lawsuit;
- 9) Attorney refused to communicate with Plaintiff for months from Dec. 2016 to May 11, 2017 when Attorneys decided to withdraw after little to no work in lawsuit; (Exhibits A,B)
- 10) Attorneys refused evidence in filed lawsuit & falsely claimed not material or relevant as assault & claimed Plaintiff should settle for \$200.00 suit that worth is \$ 13,208.00 for loss of 5 months paid rent, 5 months of \$600.00 wine bill & destruction with stolen property as of Dec. 14, 2016 for defense of Defendant Schroeder; (Exhibits A, B)
- 11) Attorneys self-interest to not work & do necessary job for this lawsuit as required;
- 12) Attorneys filed in wrong court with limit of \$10,000.00 only; (Justice Court);
- 13) Attorneys refused to take any directions from Plaintiff in this lawsuit as allowed;
- 14) Attorneys refused to join "indispensable party" to lawsuit December 14, 2016;
- 15) Attorneys knowingly received admission of Plaintiff's property held by Defendant

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Schroeder and made no demands for the items to be returned against laws;

- 16) Attorney demonstrated "conflict of interest" with Defendant Schroeder in lawsuit, showing bias, prejudice, retaliation as "good old boy network & abuses for \$200.00;
- 17) Attorneys made concessions & excuses with allowances for Defendant Schroeder;
- 18) Attorneys caused confusion & refused to set mediation dates in lawsuit scheduled;
- 19) Attorneys lack of due diligence & refusal of instructions by multiple emails & dates;
- 20) Attorneys did not maintain high ethical standards in this lawsuit with Plaintiff & provide professional functions as required conformed to laws, duty, confidence & trust;
- 21) Attorneys violated operation of law, common law, committed frauds, acted contrary to equal treatment afforded to others /society against laws & did not uphold legal process;
- 22) Attorneys neglected this lawsuit, false representations, held no client interest, no obligation, no responsibility, gave confidential information to Defendant Schroeder for his benefit, no honesty, no loyalty, no interest is "material facts," no good faith, no trust, no reasonable care, no full disclosure, no communications, no due diligence, no rules followed, no conflict avoidance, no confidentiality & no competence in legal process;
- 23) Attorneys committed legal malpractice by negligence, breach of duty breach of contract by harm to their client, acted in their own self-interest instead of fulfilling duty, refused to amend pleadings to include all quantifiable damages, negligence & intentionally against Plaintiff & refused all material relevant evidence & information from court, refused requirements as violated "tort laws," causations & all Plaintiff's damages will be proven as Plaintiff's best interest was never considered in lawsuit;
- 24) Attorneys, negligence, omissions or commissions operated contrary to the high standards of any competent attorney in the same circumstances according to rule of law;
- 25) Attorneys violated Justice Court limitations, delayed Plaintiff's property, restitution for more than 2 years, 8 months, 17 days on going with additional court costs, because of negligence, omissions, commission, conflicts, falsity, frauds, DTPA & Malpractice, etc.;
- 26) Attorneys breached implied & expressed contract (Promises) by agreement, words & conduct from May, 2016 to their withdrawal without complete disclosure of condition of this lawsuit with invalid filed case in a proper court, incomplete pleadings & violations causing deceptions, frauds, malpractice, breaches of duty, care, contract & negligence;
- 27) Attorneys do not need a contract, fees, costs to be valid suit for fraud & malpractice;
- 28) Attorneys disciplinable offenses, unethical acts is itemized throughout this filing;
- 29) Filed documented proof of Defendants representation. (Exhibits A, B - May 15, 2017)

Lawsuit # 2 - Anthony Balistreri - Attorneys Misconduct for Both Defendants

- 30) **Attorneys gave false information & negligent misrepresentations** that they would examine Plaintiff's deceased father (Anthony J. Balistreri) records for a lawsuit on his abuses, cause of death, loss of 47 pounds in less than 5 weeks, bumps, bruises, over medicated killing all his bodily functions & organs, mishandling of his care, no use of medical records, frauds against him, torture, physical & mental abuses & lack of food etc.
- 31) **Attorneys falsely claim** examination of all delivered medical & personal information detailed would take 30 days for inspection to contract after doctors & nurses reports;
- 32) **Attorneys kept Balistreri's file for 5 months**, no return phone calls, no updates knowing statute of limitations was expiring as of Sept. 24, 2015 & delivered case file back to Plaintiff on or about November 23, 2015 with no reports as claimed as fraud;
- 33) **Statute of Limitations expired & prevented all legal remedies** in the death & abuses of Plaintiff's Dad by Attorney's negligence, frauds, negligent misrepresentations, bad faith intent, no communication. No due diligence, No reasonable care, no duty, no care, violations of laws, rules & professional conduct, neglect, no responsibilities, omissions, commissions, "conflict of interest, bias, prejudice, retaliation against disabled senior, refused communication for return of case file timely before statute of limitations expiration, Sept. 24, 2015, no competence, legal Malpractice, breach of implied & expressed agreement, false deceptive words & conduct that Plaintiff Amrhein relied upon that caused loss of his lawsuit, all damages; (Return file Nov. 23, 2015 knowing out SOL)
- 34) **Attorneys Disciplinable offenses, unethical acts**, causes of Actions, Stated Claims, failing to communicate, no return of clients documents in both lawsuits timely, incompetence, false statements, negligence, relied upon frauds, deceptive trade practices act at 3 times amount of damages to Plaintiff & Legal Malpractice by these offenders !
- 35) Defendants / Attorneys prevented prosecution of abuses & death of Plaintiff's Dad in a corrupt & cruel nursing home, causing Plaintiff loss of sleep, upset, body pain, back pain, headaches, grinding teeth broken, personal injuries due to these corrupt illegal acts;

XVII. DEFENDANTS DENIAL, SPECIAL EXCEPTIONS & CLARIFICATIONS

1. **"No one is above the law."** It does not surprise that Defendants Bollinger & Wormington want to deny everything now that this lawsuit is filed. Not a surprise the Defendants Bollinger & Wormington want to continue their corrupt business as usual to injure litigants by frauds, deception, negligent misrepresentation, breaches of duty, care & contracts, so why is lying to a Court or Judge any different. Defendants / Attorneys Bollinger & Wormington forget their misconduct, victims & violations of laws & then falsely claim all kinds of objections & special exceptions to shut Plaintiff down from all redress for Constitutional Rights. How special do you as Defendants think you are with

phony excuses as educated, Texas licensed actors as conspirators & cheats dragging down the legal profession causing injuries, damages & thefts against innocent trusting victims. Plaintiff is prepared to go all the way, before a jury of reasonable ordinary people to expose Defendants / Attorneys Bollinger & Wormington's "Corruption," because theft of property, no paid rent over 5 months, threats & sexual assault are real material & relevant evidence to lawsuit they refused to add to pleadings in lawsuit & fraudulently represented Plaintiff Amrhein in 2015 & May 11, 2017 now demands Justice; (Exhibits A, B);

2. Defendants / Attorneys complain the petition is vague & not proper notice as to who et al is after each name within Petition / Pleadings;

3. Lennie Bollinger & Wormington & Bollinger Law Firm refers to your own Liability Insurance Company, so Plaintiff would have no knowledge of their name until completed discovery. Attorney Bollinger referred to in his email message to try to settle this lawsuit;

4. Darlene C. Amrhein, et al refers to Plaintiff's estate in event of death & continue suit;

5. Defendants / Attorneys complain Plaintiff never an employee, so no discrimination;

6. Laws states that discrimination occurs for various reasons, so false filed excuse claim;

7. **Discrimination** - unequal treatment of persons, for a reason which has nothing to do with legal rights or ability. Federal and state laws prohibit discrimination in employment, availability of housing, rates of pay, right to promotion, educational opportunity, civil rights, and use of facilities based on race, nationality, creed, color, age, sex or sexual orientation. The rights to protest discrimination or enforce one's rights to equal treatment are provided in various federal & state laws, which allow for private lawsuits with right to damages. Federal & state commissions investigate & enforce equal rights;(senior age)

8. **Civil Rights** - those rights guaranteed by the Bill of Rights, the 13th and 14th Amendments to the Constitution, including the right to due process, equal treatment under the law of all people regarding enjoyment of life, liberty, property, and protection. Positive civil rights include the right to vote, the opportunity to enjoy the benefits of a democratic society, such as equal access to public schools, recreation, transportation, public facilities, & housing, & equal & fair treatment by law enforcement & courts;

9. **Professional Negligence or Malpractice** is defined as "the failure of one rendering professional services to exercise that degree of skill & learning commonly applied under all the circumstances in the community by the average prudent reputable member of the profession with the result of injury, loss, or damage to the recipient of those services;"

10. **Attorneys Bollinger & Wormington do not understand** that Plaintiff Amrhein is not just filing this lawsuit for Malpractice, but for all violations of laws on all listed, named & numbered violations of laws in this lawsuit, so nothing fractured, nothing confusing & nothing exempt in suit against Defendants, so "fair notice" has been given

& not at all vague as falsely claimed by Defendant Attorneys fraudulent court filing;

11. Breach of Fiduciary Duty is highest standard of care at either equity or law. A fiduciary is expected to be extremely loyal to the person to whom he owes the duty (the "principal"): such that there must be no conflict of duty between fiduciary and principal, and the fiduciary must not profit from his position as a fiduciary, which Defendant Attorneys do not appear to understand or comprehend; (Exhibits A, B);

12. Special Exceptions - Historically, at trial, an attorney had to promptly take an exception (by saying "I except" followed by a reason) immediately after an objection was overruled in order to preserve it for appeal, or else the objection was permanently waived. In addition, at the end of the trial, the attorney had to submit a written "bill of exceptions" listing all the exceptions which he intended to appeal upon, which the judge then signed and sealed, making it part of the trial record. Eventually most lawyers and judges came to recognize that exceptions were a waste of time because the objection itself and the context of the surrounding record are all the appellate court really needs to resolve the point in dispute. Starting in the 1930s, exceptions were abolished in the federal courts and in many state courts as well. For example, California technically did not abolish exceptions, but merely rendered them superfluous by simply treating just about every ruling of the trial court as automatically excepted to. Thus, in nearly all U.S. courts, it is now sufficient that objection was clearly made on the record; (Exhibits A, B);

13. Defendant David Schroeder is not apart of this lawsuit, but was a named Defendant that Attorney Bollinger filed in the wrong Court for over a year with the wrong dollar amount, wasting Plaintiff Amrhein's time, Justice Court violations of limitations & time, so this another "fraudulent excuse" filed in this lawsuit to mislead this Court...how quickly these Attorneys / Defendants forget their violations of laws;

14. United States Constitutions is "supreme law of the land." Not Texas Constitution & the Texas Rules of Civil Procedure or Rules of Evidence or any other laws;

15. State Action Clause of the Fourteenth Amendment declares that a state cannot make any law that abridges the privileges or immunities of any citizen;

16. First Amendment guarantees freedoms concerning religion, expression, assembly, and the right to petition. It guarantees freedom of expression by prohibiting Congress from restricting the press or the rights of individuals to speak freely. It also guarantees the right of citizens to assemble peaceably and to petition their government for redress;

17. 14th Amendment No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the "equal protection of the laws;"

18. **"Due process"** is the legal requirement that the state must respect all legal rights that are owed to a person. Due process balances power of law of the land and protects individual person from it. When a government harms a person without following exact course of law, this constitutes a due process violation, which offends rule of law;

19. **Due Process Clause** - The Fifth and Fourteenth Amendments both contain a Due Process Clause, although the Fourteenth Amendment applies to the states. The Supreme Court has interpreted Due Process Clauses in both articles as having the same meaning;

20. **Due Process Clause guarantees fairness to all individuals** - This fairness might require different elements, such as a decision with substantial evidence to support it, an opportunity to be heard, and notice. As a basic rule, the more important the right, the stricter the process must be. Supreme Court has defined what property & liberty interests are in different cases; (Exhibits A, B);

21. **Procedural due process** is the most widely accepted form of due process and required states to follow certain procedures before they can deprive individuals of life, liberty, and property. Although some argue that the Founders meant this list to be illustrative, the Supreme Court interpreted it literally and require an individual to show that the issue concerns their life, liberty, or property; (Exhibits A, B);

22. **Benefit of Representing Plaintiff Amrhein** - Does it mean Defendants /Attorneys plan to revoke their legal practice licenses? So it was not about, laws, rights, trust fairness, due process & Justice. It was about conspiracy, corruption, Obstruction of Justice, "Fraud Upon Courts, "conflict of interest, bias prejudice, retaliation & "good old boy network" to violate laws & Constitutional Rights for money; Got "bad faith" intent;

23. **Intentional Infliction of Emotional Distress** (IIED; sometimes called the tort of outrage) is a common law tort that allows individuals to recover for severe **emotional distress** caused by another individual who intentionally or recklessly inflicted **emotional distress** by behaving in an "extreme and outrageous" way, fear; (Exhibits A, B);

24. **Mental Anguish** is similar to suing for emotional distress because the plaintiff suffers psychological injury, not physical one. However, it is usually connected to another type of personal injury tort claim, fear & other than emotional distress; (Exhibits A, B);

25. **Bad Faith Intent** is fraudulent deception of another person. The intentional or malicious refusal to perform some duty or contractual obligation. Bad faith is not the same as prior judgment or

Negligence. One can make an honest mistake about one's own rights and duties, but when rights of someone else are intentionally or maliciously infringed upon, such conduct demonstrates bad faith; (Exhibits A, B);

26. **Existence of bad faith** can minimize or nullify any claims that a person alleges in a lawsuit. Punitive Damages, attorney's fees, or both, may be awarded to a party who must

defend himself or herself in an action brought in bad faith; Bad faith is a term commonly used in the law of contracts; (Exhibit A filed to make Defendants accountable in court.)

27. **Malpractice** is not fractured in lawsuit; (Exhibits A, B);

Breach by a member of a profession of either a standard of care or a standard of conduct. Malpractice refers to **Negligence** or misconduct by a professional person, such as a lawyer, a doctor, a dentist, or an accountant. The failure to meet a standard of care or standard of conduct that is recognized by a profession reaches the level of malpractice when a client or patient is injured or damaged because of error. (Exhibits A, B);

28. **Typical malpractice suit** will allege the TORT of negligence by the professional. Negligence is conduct that falls below the legally established standard for the protection of others against unreasonable risk of harm. Under negligence law a person must violate a reasonable standard of care. Typically this has meant customary or usual practice of members of the profession, (Exhibit A, B);

29. **Example**, if a surgeon leaves a sponge or surgical tool inside a patient, the surgeon's carelessness violates a basic standard of care. Likewise, if an attorney fails to file lawsuit for a client within time limits required by law, attorney may be charged with negligence & proximate cause for damages; (Exhibits A, B); (Withdrawal does not insulate wrongs.)

30. **Proximate Cause of Damages** - In law, a **proximate cause** is an event sufficiently related to an injury that the courts deem the event to be the **cause** of that injury. There are two types of causation in the law: **cause-in-fact**, and **proximate** (or legal) **cause**;

31. **Sec. 41.006. AWARD SPECIFIC TO DEFENDANT.** In any action in which there are two or more defendants, an award of exemplary damages must be specific as to a defendant, and each defendant is liable only for the amount of the award made against that defendant; (100 % of contact with Defendant Bollinger, none with Wormington.)

32. **Sec. 41.007. PREJUDGMENT INTEREST.** Prejudgment interest may not be assessed or recovered on an award of exemplary damages;

33. **Sec. 41.008. LIMITATION ON AMOUNT OF RECOVERY.** (a) In an action in which a claimant seeks recovery of damages, the trier of fact shall determine amount of economic damages separately from the amount of other compensatory damages.

(b) Exemplary damages awarded against a defendant may not exceed an amount equal to the greater of: (1)(A) two times amount of economic damages; plus (B) an amount equal to any noneconomic damages found by the jury, not to exceed \$750,000; or (2) \$200,000;

34. **Exemplary Damages** often called **punitive damages**, these are damages requested

24.

and/or awarded in a lawsuit when the defendant's willful acts were malicious, violent, oppressive, fraudulent, wanton or grossly reckless; (Exhibits A, B);

35. Punitive damages, or exemplary damages, are damages intended to reform or deter the defendant and others from engaging in conduct similar to that which formed the basis of the lawsuit. ... **Punitive damages** are often awarded if **compensatory damages** are deemed an inadequate remedy; (Exhibits A, B);

36. Punitive damages are not meant to give you back something you lost due to the accident. They are meant to punish the defendant for conduct that was especially outrageous; (Exhibits A, B are no accident or mistake, but Defendants' fraud scams);

37. Compensatory Damages' Money awarded to a plaintiff to compensate for damages, injury, or another incurred loss. **Compensatory damages** are awarded in civil court cases where loss has occurred as a result of negligence or unlawful conduct of another party;

38. A defendant is liable to a plaintiff for all the natural and direct consequences of the defendant's wrongful act, with respect to **compensatory damages**; (Exhibits A, B);

39. For Plaintiff to claim a certain amount of damages to each Defendant would be speculation as not present during plans & conspiracy between these two named

Defendants / Attorneys Bollinger & Wormington for Split of Damages In Suit;

40. Plaintiff Amrhein never spoke or emailed Attorney Wormington as only contact was Attorney Lennie Bollinger. Defendant Lennie Bollinger can sue his partner for having his name on the advertisement of this Wormington & Bollinger Law Firm; (Exhibits A, B);

41. Plaintiff Amrhein hopefully answered all Defendant / Attorneys confusion in this lawsuit with full & fair timely notice, right of redress for all specific issues & laws that have been violated with "**Right To Sue**" to these Defendant / Attorneys Lennie Bollinger & Attorney Wormington, because \$3,000.00 bribe did not work to stop this lawsuit;

42. Plaintiff Amrhein has given Defendants / Attorney more than enough notice to prepare for trial by jury with Level I Discovery & all parties named on page 1 of filing;

43. Defendants / Attorneys engaged in "Conflict of Interest" in their representation;

44. Defendants / Attorneys had a bias & prejudice against Plaintiff Amrhein & lawsuit;

45. Defendants / Attorneys used retaliation against Plaintiff by refusing to work case;

46. Defendants / Attorneys committed "Fraud Upon Court" & "Obstruction of Justice;"

25.

XVIII. PLAINTIFF'S ORIGINAL FILED PETITION & DISCOVERY STANDS

CAUSE NO. 02-02654-2017 (Filing Revised)

DARLENE AMRHEIN, et al

COUNTY COURT AT LAW

Plaintiffs

V.

NO. TWO (2)

ATTORNEY LENNIE F. BOLLINGER,

WORMINTON & BOLLINGER LAW FIRM

COLLIN COUNTY, TEXAS

Defendants

PLAINTIFFS' ORIGINAL PETITION AND REQUEST FOR DISCOVERY

COMES NOW, Plaintiff Darlene Amrhein and Representative for (Deceased) Anthony Balistreri, hereafter referred to as Plaintiff & Plaintiffs complaining of Wormington Law Firm, & Attorney Lennie Bollinger, et al, hereafter referred to as "Defendant & Defendants;"

I. DISCOVERY CONTROL PLAN

Plaintiff requests that this cause be governed by a discovery control plan whereby discovery is conducted under Level 3.

II. PARTIES

Wormington Law Firm, 212 East Virginia Street, McKinney, TX. 75069 and
Attorney Lennie F. Bollinger, 212 East Virginia Street, McKinney, TX. 75069
Darlene Amrhein, 112 Winsley Circle, McKinney, TX. 75071;

III. FACTS

Following are some facts in 2 legal Representations / Lawsuits that make basis of this above filed lawsuit against Wormington & Bollinger Law Firm, & Attorney Lennie F. Bollinger, for "good cause" reasons that created multiple errors, hidden facts, frauds, violated Code of Professional Responsibility, "bad

26.

faith" intent, violated Texas Laws, Rules of Civil Procedure & or Malpractice as stated by Plaintiff that will be proven in specific lawsuit & representations against Wormington & Attorney Lennie F. Bollinger; (Exhibits A, B)

MISHANDLING OF LAWSUIT # 1 – DAVID ALLEN SCHROEDER

- 1) Defendant David Schroeder moved into Plaintiff's residence located at 112 Winsley Circle, McKinney, TX. 75071 in October, 2014;
- 2) Defendant agreed to pay Plaintiff the sum of \$200.00 per month, from month to month for rent, utilities, and other miscellaneous expenses under represented certain represented conditions;
- 3) Defendant failed to pay the agreed upon \$200.00 per month from October 1, 2014 to March 10, 2015, misrepresented himself to get into Plaintiff's home;
- 4) Defendant misrepresented himself & defrauded Plaintiff as to his life, person, habits & past history to prevent Plaintiff in making an "informed decision" as to enter into this implied & expressed agreement;
- 5) Plaintiff discovered Defendant's Mug Shot & when confronted he continued to make false statements & misrepresent all the facts to Plaintiff;
- 6) Defendant was on anti-anxiety medication for a mental disorder;
- 7) Defendant assaulted Plaintiff early in fall 2014 & false misrepresented himself;
- 8) Defendant paid for nothing from October, 2014 to March 10, 2015 in form of rents, expenses & walked out on March 10, 2015, after damaging Plaintiff's home, property for revenge for claiming "we should date other people;"
- 9) Defendant followed up with harassment by telephone, fax, email at different times of night & day against Plaintiff;
- 10) Defendant used a false name representation to send certified mail to Plaintiff; Defendant as non-drinker drank approximately a bottle of wine at night at Plaintiff's expense & paid for no wine from October, 2014 to March 10, 2015;

11) On December 11, 2014 Defendant drove in a reckless manner with Plaintiff in her automobile, causing, fear, then drank multiple glasses of wine, got into this same automobile with Plaintiff & drove drunk aggressively, with anger, speeding & continued all the way to this home, 112 Winsley Circle following his DUI, DWI, 6 months in jail & 24 months in probation with a record as repeat offender, which was unknown to Plaintiff;

12) Plaintiff believed the Justice Court / Small Claims Court would take care of all Defendant's violations of laws, but was informed by Judge Raleeh that he does not deal with any crimes & these losses exceeded his jurisdictional limits;

13) Plaintiff filed a Notice of Appeal & Docket Statement in Judge Raleeh's Court that was originally filed by Attorney Lenny Bollinger & Wormington Law Firm, who withdrew in this case, liable & sued for his actions during this lawsuit that caused further harm & losses to Plaintiff;

14) Defendant represented himself as a non-smoker, that smoked a pack of smokes or more from day to day, causing injuries to Plaintiff;

15) Defendant engaged in frauds & lies from October, 2014 to March 10, 2014 & beyond to last hearing on October 13, 2017, when he committed perjury in court;

16) Defendant had an undisclosed police record, 6 months jail time, 2 year probation period that ended November, 2013, which he falsely claimed as still active in November, 2014 to March 10, 2015 to manipulate & control Plaintiff;

17) Defendant tried to manipulate, intimidate & control Plaintiff from June 11, 2014 to March 10, 2015 & beyond to court proceedings Oct. 13, 2017 in court;

18) Defendant engaged in threatening words, acts, moods, tempers & physically throwing things at home, garage & yard;

19) Defendant slandered Plaintiff's name & reputation with others from Police to friends by false posts & false reports;

28.

- 20)** Defendant engaged in removing items from Plaintiff's home without permission, keeping those things, refusing to return all items upon last "demand letter" notice at various given addresses from February 15, 2016 to the present;
- 21)** Defendant filed false Police Reports against Plaintiff to establish a defense for all of his violations of laws to distort the facts of him trying to victimize Plaintiff as he had done to other women for his own financial gain & revenges;
- 22)** Defendant was sued by Plaintiff in Justice / Small Claims Court as of May, 2016 to the present October 18, 2017 for returns & cost of her property, all damages done to her property, all actions for all things done to Plaintiff Amrhein at approximately \$ 13,208.00 as listed below & changed to actual damages by losses;
- 23)** Plaintiff's losses exceeding the jurisdictional limits of her filed lawsuit this case was dismissed on October 18, 2017 & now to be moved to the County Court at Law by Plaintiff Notice of Appeal on October 23, 2017;
- 24)** Plaintiff has not caused delay in "due process" of this lawsuit, Cause No. 01-SC-16-00165, but due to her attorneys, Attorney Lennie Bolinger & Wormington Law Firm's errors, misconduct, breach of Code of Professional Responsibility & Conduct, "good cause" reasons & Malpractice as complained of in Justice / Small Claims Court filing that was not read until a few minutes before pre-trial conference on October 13, 2017 at which time Defendant Schroeder committed "perjury," while under his sworn oath;
- 25)** Attorney Bollinger for months answered no calls, no e-mails, communicated very little, refused all directions & additions to this lawsuit & wanted Plaintiff to settle this lawsuit for \$200.00 on a \$13,208.00 claim with no items, no repaired property, no settlement & no reporting of anything. including this assault;
- 26)** Attorney Bollinger only reported "conversion of property" & refused all other Plaintiff claims to be filed & gave no explanations to Plaintiff; (Exhibits A, B)

27) Attorney Bollinger appeared to be working for defendant with favors & delays against Plaintiff Amrhein, when he withdrew from the lawsuit, which was documented for the Justice Court / Small Claims Court, who hears no crimes;

28) Not all Plaintiff's client filed was returned & had to be demanded just days before jury trial date that did not occur, due to evaluation & no crimes, which was never disclosed to Plaintiff as filed in the "wrong court," causing Plaintiff damages, harms & further losses by frauds, omissions, concealment, delays & cover up, conspiracy, breach of fiduciary duty, etc.; (Exhibits A, B);

29) Attorney Bollinger & Wormington Law Firm, never followed through any discovery in this case as stated in Level One Control Plan, request one admission from Schroeder & never followed through from May 9, 2016 to withdrawal about May 11, 2017; (Exhibits A, B)

30) Listed Damages in this lawsuit Defendants refused to add in (Exhibits A, B)
Cause No. 01-SC-16-00165 as follows:

Rent.....	\$1,000.00
Certified Mail.....	\$ 90.00
Wine Bill.....	\$600.00
Utilities x 5 Water, Electric, Gas, Heat	\$1,150.00
Cash.....	\$ 200.00
His Concert Ticket.....	\$100.00
Shower Repairs & Floor Damage.....	\$ 400.00
Burned Rug.....	\$ 95.00
Meal Tickets.....	\$60.00
Movie Ticket & Dinner.....	\$42.00
Sofa Table & Furniture Damages.....	\$200.00
Sun Glasses	\$140.00

Parking & Wine	\$40.00
Silver Cross & Chain.....	\$60.00
Go Bible & Case.....	\$60.00
Picture Frame.....	\$10.00
Pictures.....	\$500.00
Sweat Suit.....	\$30.00
Blue Lunch Bag.....	\$ 20.00
Blue Thermos.....	\$ 25.00
Grandchildren Christmas.....	\$ 100.00
3 Shirts.....	\$120.00
3 Ties.....	\$90.00
St Jude Medal.....	\$40.00
Nicoderm Returned.....	\$ 28.00
Damaged Winter Jacket.....	\$28.00
Extra Security Locks.....	\$95.00
Emotional Distress.....	\$1,750.00 to \$2,000.00
Fear.....	\$2,000.00 to \$5,000.00
Counseling & Medical Treatments, Medications.....	\$2,000.00
Time for Lawsuit & Supplies.....	\$300.00
Damage to Front of House & Garage Door.....	\$100.00
Damages to Reputation.....	\$1,000.00
Damage to Credit.....	\$1,000.00
Tax Penalties.....	\$ 72.00
Loss of Time.....	\$ 2,000.00
Specialty Requested Foods.....	\$38.00
Wi fi.....	\$75.00

Gasoline.....\$100.00
Certified Court Records.....\$25.00
Future Medical Bills.....unknown as incomplete
Private Investigator Stanul.....\$1,175.00

Interest on Owed Money for 30 Months at 4% rate - Theft Conversion, etc. until paid in full / settlement by David A. Schroeder, plus Court Costs, Attorney Fees & any other relief to which Plaintiff is entitled as a senior citizen over 65 years;

Total : \$9,975.00 - **Before Trial** \$ 8,500.00 – **Actual Damages** \$ 13, 208.00

31) Plaintiff reserves right to add additions to the misconduct of Defendants.

2 MISHANDLE LEGAL REPRESENTATION AS IMPLIED / EXPRESS

32) Defendant Attorney Lennie F. Bollinger was to examine all records for Anthony J. Balistreri that was given to him with notice of pending September 24, 2015 “statute of limitations,” while falsely claiming he & his Wormington & Bollinger Law Firm, only needed 30 days to determine their representation, but kept this case file for 5 months with notice & return about November 25, 2015;

33) Plaintiff Amrhein, as daughter & legal representative, continually called for updates for Defendant Wormington & Bollinger legal representation receiving excuses, no timely return of messages & calls for months with no discovery;

34) Defendant Attorney F. Bollinger & Wormington Law Firm, had all Plaintiff Amrhein’s proof, representative list & records, which prevented seeking other legal counsel from about May, 2015 to approximately November 23, 2015;

35) Defendant Attorney Bollinger, as representative of Wormington Law Firm, et al appeared at Plaintiff’s home, dumped off her case of records for the “wrongful death” of her Dad, Plaintiff Anthony Balistreri, after these “statute of limitations” expired, while leaving in a hurry for his Thanksgiving vacation & destroying all legal options knowingly for deceased Anthony J. Balistreri by his “bad faith”

intent, errors, action, breached of Professional Code of Responsibility for these Texas Licensed Attorneys;

36) Defendant Bollinger claimed that he would file Plaintiff's lawsuit # 1 with Defendant Schroeder, which is referenced above causing more harms, errors, losses, breaches & violations of laws, Rules of Civil Procedure, Violations of Code of Professional Responsibility by these licensed Defendants Attorneys & law firm by Unethical Standards & Legal Malpractice making them legally liable;

Plaintiff reserves the right to add additions to the misconduct of Defendants.

IV. CAUSES OF ACTIONS AGAINST ALL LISTED DEFENDANTS

- 1. Defendants committed Frauds against Plaintiffs in Lawsuit & Representation;**
- 2. Defendants committed various negligent misrepresentations against Plaintiffs;**
- 3. Defendants breached their implied & expressed contract with Plaintiffs;**
- 4. Defendants' act of "bad faith" intent, knowing it would cause Plaintiffs' harm;**
- 5. Defendants misrepresented their experience/ education as Licensed Attorneys;**
- 6. Defendants didn't communicate timely to Plaintiff for suit & legal evaluation;**
- 7. Defendants refused or hid facts of these 2 representations, evaluations & suit;**
- 8. Defendants did not act in 30 days & caused expired "statute of limitations;"**
- 9. Defendants did not file this lawsuit as represented & in the wrong court;**
- 10. Defendants failed to protect Plaintiffs legal & U.S. Constitutional Rights;**
- 11. Defendants did not file proper documents timely in the proper Court;**
- 12. Defendants did not represent Plaintiffs as expressed, but frauds & negligence;**
- 13. Defendants failed to follow & enforce the Texas Rules of Civil Procedure;**
- 14. Defendants failed to follow Texas Code Rules of Professional Responsibility;**
- 15. Defendants failed to turn over Plaintiffs files, records & property timely;**
- 16. Defendants violated Ethics Rules of the State Bar of Texas; (Exhibits A, B)**
- 17. Defendants violated Plaintiffs' Civil Rights against existing laws;**

18. Defendants engages in poor communication with Plaintiff Amrhein;
19. Defendants had missing documents from Plaintiff's Schroeder client file;
20. Defendants made clerical errors in Plaintiff's court filing claims not important;
21. Defendants failed to file documents to perfect Plaintiffs' interests against others
22. Defendants failed to follow Plaintiff's instructions several times for months;
23. Defendants refused Plaintiffs' facts in both case & representations;
24. Defendants failed to inform Plaintiff & representative for deceased Balistreri;
25. Defendant did not follow through on Discovery & Admissions against Plaintiff;
26. Defendants engaged in Procrastination in these representations & legal matters;
27. Defendants failed to obtain Plaintiff's consent in both legal representations;
28. Defendants failed to follow up in both representations & cases; (Exhibits A, B)
29. Defendants engaged in "conflict of interest" against Plaintiffs;
30. Defendants filed in wrong court causing Plaintiffs' delays & losses for years;
31. Defendants failed to follow Plaintiff's instructions in legal representations;
32. Defendants failure to meet of file before deadlines & subpoena a witness;
33. Defendants failed to file suit before statute of limitations; (Pure Malpractice)
34. Defendants failed to return phone calls & messages for months;
35. Defendants fails apply laws correctly to Plaintiffs situations & circumstances;
36. Defendants breached & abused Plaintiff's trust in lawsuit & representations;
37. Defendants breached their fiduciary duty with Plaintiffs & their cases;
38. Defendants failed to act in "good faith with Plaintiffs; (Exhibits A, B)
39. Defendants were negligent with Plaintiffs and their legal cases & or lawsuits;
40. Defendants acted wrongfully & by omissions against Plaintiffs;
41. Defendants engaged in improper withdrawal in the lawsuit & destroyed other;
42. Defendants keeping case 5 plus months knowing "statute of limitations," to September then drops it end of November is fraud, etc. & Malpractice;

43. Defendants withdraw knowing errors, breaches, violations, negligence & fraud against Plaintiffs is Malpractice; (Exhibits A, B)
44. In both instances cited Defendants gave or promised to give Plaintiff's legal advice & assistance, creating harms, losses is Malpractice;
45. Defendants established an attorney-client relationship in which Plaintiffs were owed competent and skillful representation as implied from an Defendants / Attorneys' actions in connection with Plaintiffs' actions & or by reasonable belief enough to find an "attorney-client relationship" & includes all their employees;
46. In performing legal services, Defendants did not exercise care, skill, and diligence that commonly exercised by other attorneys in similar conditions & circumstances & Defendants requested no discovery for over one year in lawsuit;
47. If Defendants had not been negligent or otherwise acted wrongfully, Plaintiffs would have been successful in the underlying case;
48. These Defendant attorneys handled this case & pending evaluation case inappropriately due to negligence or intent to harm & cause damages to Plaintiffs;
49. Defendants were not truth with Plaintiff in both cases & lawsuits;
50. Defendants discriminated against Plaintiff by age, gender & disability;
51. Defendants engaged in cover up, conspiracy, obstruction of justice & "fraud Upon Court," while causing injuries & harm to Plaintiff to advantage of Schroeder;
52. Defendants tried to force a ridiculous settlement upon Plaintiffs in both cases;
53. Plaintiff Amrhein in 2 cited cases have "probable cause" against Defendants & their Professional Liability Insurance Company & or Legal Malpractice Insurance Company as well as personal liability to all these employed participants. Exhibit A

V. DAMAGES

Plaintiff alleges that as a direct and proximate result of the conduct and / or acts and / or omissions of the Defendants listed above, Plaintiffs, is entitled

35.

to recover at least the limits with 53 allegations of improper conduct, frauds, negligence, "obstruction of Justice & "Frauds Upon Courts," etc. Plaintiff Amrhein is entitled to know Defendants Wormington & Bollinger Law Firm & Attorney Lennie F. Bollinger, Professional Liability Insurance and or Defendants Legal Malpractice Insurance Company, by discovery policies & policy limits to determine all damages & within Collin County Court of Law \$200,000.00 limit:

VI. VENUE

Venue is proper in Collin County, Texas as the events giving rise to this suit occurred in Collin County, Texas.

VII. REQUEST FOR DISCLOSURES:

Pursuant to TRCP 194, Defendant, et al herein is requested to disclose, within 50 days of the service of this Petition and request, the information and / or material described in TRCP / Rule 194.2(a) through (k), including all names & addresses of all Liability & or Malpractice Insurance Companies, State Bar Discipline & Complaints under Defendants Texas Licenses;

VIII. REQUEST FOR ADMISSIONS:

Pursuant to Rule 198 of the Texas Rules of Civil Procedure, Plaintiff serves the following Request for Admissions to Defendant, et al. Defendants are requested fully, in writing, and in accordance with Rule 198 of the Texas Rules of Civil Procedure. The admissions requested are to be responded to fifty (50) days after service of this request. The failure to answer within the prescribed period may result in the Admissions being deemed admitted by the aforementioned Court. If you fail to admit a matter upon which Plaintiff(s) later has to prove at her expense, you may have to pay for the costs of such proof if you do not have good cause for admitting the request when such request was served;

ADMISSION NO. 1: Admit Defendants have Professional Liability Insurance or

Legal Malpractice Insurance;

ADMISSION NO. 2: Admit Defendants returned Anthony Balistreri case file after the Statute of Limitations expired on or about November 25, to 27, 2015;

ADMISSION NO. 3: Admit Defendants filed Plaintiff Amrhein's lawsuit known as Cause No. 01-SC-16-00165 in the Justice Court / Small Claims Court under conversion of property suggesting a settlement of \$ 200.00 in this case;

ADMISSION NO. 4: Admit Defendants refused to add all facts to Plaintiff's lawsuit known as Cause No. 01-SC-16-00165 against her instructions;

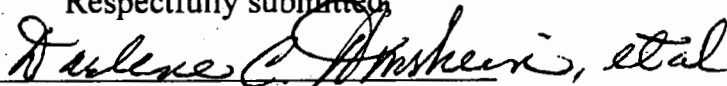
ADMISSION NO. 5: Admit Defendants did not communicate with Plaintiff for long periods of time that did not protect Plaintiff Amrhein's legal interests;

IX. PRAYER

WHEREFORE, Plaintiffs' prays that Defendants be cited to appear and answer, and that on final trial the Court render judgment in favor of Plaintiff, consisting of:

- a. Damages, actual, special and otherwise;
- b. Punitive and / or exemplary damages;
- c. Costs of court;
- d. Both pre-judgment and post-judgment interest of the maximum legal rate;
- e. For such other and further relief both general and special, at law and in equity, to which Plaintiff, et al may be justly entitled by Judge or Jury Trial.

Respectfully submitted;



Darlene C. Amrhein, Plaintiff, Pro Se &

As Legal Representative for Deceased Anthony J. Balistreri

112 Winsley Circle

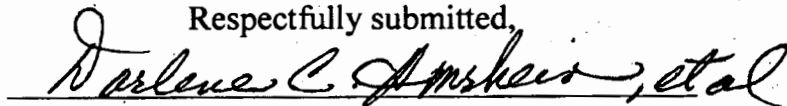
McKinney, Texas 75071

Unlisted Telephone Number & E-Mail: Winsley112@yahoo.com

IN CONCLUSION OF THIS FILING AND PRAYER FOR RELIEF

The above filed Original Petition was revised to exclude Defendant / Attorneys Bollinger & Wormington excuses, complaints & false statements to this Court. Plaintiff Amrhein has attached Exhibits A, B, that was provided into court records, now in various filings. Defendants / Attorneys licensed to do "corrupt business practices," fraudulent claims of unlawful attorneys is a disgrace to this legal profession. Formal complaints will be filed for every actions & omissions here. Hopefully Defendants Bollinger & Wormington will have a better understanding of their crimes & acts in this lawsuit as it is not just "malpractice." The jury will have a better understanding of legal & U.S. Constitutional Rights with dealing with fraud & scammers like these Defendants. Plaintiff has no plans of dropping any of the itemized issues in this lawsuit, pleadings & petitions. Defendants continued false statements, excuses, complaints with "no professional standards" will only help to prove Plaintiff's lawsuit. Sorry this is so long, but it could have been longer as Defendants / Attorneys Bollinger & Wormington have very "fair notice" to prepare for discovery & "jury trial." Plaintiff plans to win & everything stands. Plaintiff will not allow these Defendants / Attorneys to violate Plaintiff's Rights & "equal protection under the laws" for both lawsuits that you both fraudulently misrepresented as Texas Licensed Attorneys. If Plaintiff failed to address all raised concerns by Defendants Bollinger & Wormington, Plaintiff's rights are reserved to later date. Plaintiff prays for fairness, due process, Constitutional Rights & Justice! (Exhibits A, B)

Respectfully submitted,

 *Darlene C. Amrhein, et al*

Darlene C. Amrhein, Plaintiff, Pro Se, Next of Kin &
Representative for Deceased Dad, Anthony J. Balistreri

11/27/17

CAUSE NO. 01-SC-16-00165

DARLENE C. AMRHEIN

IN JUSTICE OF THE PEACE

vs.

PRECINCT 1

DAVID SCHROEDER

COLLIN COUNTY, TEXAS

"FRAUD UPON THE COURT"

To The Honorable Court And Judge:

COMES NOW, Plaintiff Darlene Amrhein to file "Fraud Upon The Court" as (1) an intentional fraud; (2) by an officer of the court; (3) which is directed at court itself; and (4) in fact deceives the court. These are Plaintiff's filed "good cause" reasons:

1. Attorney Lennie Bollinger and Wormington and Bollinger Law Firm, 212 Virginia Street, McKinney, TX. 75069 (referred to as Attorney or Atty for both parties);
2. Attorney was hired approximately April, 2016 with prior conversation on Defendant;
3. Attorney filed lawsuit as attorney of record in May, 2016 with service to Defendant on or about May 10, 2016 with his Answer on May 15, 2016;
4. Attorney filed Motion For Continuance for mediation, then could not find mediator;
5. When Plaintiff found a mediator for \$100 Attorney Bollinger was not available;
6. When Plaintiff needed Medical Care with a Doctor's letter then this letter was held 23 days from Notice to this Court for resetting & for convenience of the Court by Attorney;
7. Attorney gave no copies of their court filings, only 1 Order given Dec. 14, 2016;
8. Attorney did not file for Jury Trial as requested by Plaintiff, since Dec. 14, 2016;
9. Attorney demonstrated bias, prejudice & retaliation at Dec. 14, 2016 meeting;
10. Attorney refused to answer questions or clear up confusion as to status of case;
11. Attorney appears to defend Defendant's interests, rather than Plaintiff's interest;
12. When Plaintiff started to question acts by Attorneys then no responses for months;
13. Attorney wanted a Settlement Offer without filing any claims as he was aware of;
14. Attorney make disgusting comment to Plaintiff at Dec. 14, 2016 & refused to work;
15. Attorney claims "no communication" with Plaintiff after 45 emails between them;
16. Attorney wanted to hold a meeting so no record of what would be stated by him;

FILED

2017 MAY 15 AM 8:47
CLERK
JUDGE COURT
COLLIN COUNTY, TEXAS

i. *Exhibit A*

LIST OF 45 E-MAILS (OUTLINED)

May 3, 2016 – Filed Citation for Defendant Schroeder, Service & Wrong Address On Plaintiff Pleadings;
June 1, 2016 – Police Reports Requested Certified For Trial Evidence & Refused by Attorney Bollinger;
July 14, 2016 – Defendant Schroeder Filed Answer With False Claims & No Attorney Bollinger Response;
July 19, 2016 – Continuance For Mediation In Lawsuit & Attorney Bollinger Claims Can't Find Mediator;
Aug. 25, 2016 – Update Mediation; (No Court Orders Aug. 4, 2016 & Oct 6, 2016 given on May 11, 2017;
Sept. 6, 2016 – Plaintiff Replies to Mediation Type By Attorney Bollinger Who Does Not Find A Mediator;
Sept 6, 2016 – Defendant Schroeder Agrees to Mediation & Not Available For Several Mediation Dates;
Sept. 30, 2016 – Trial Date Moved To December 14, 2016, Schroeder Complains, No Bollinger Responses;
Nov. 2, 2016 – New Additional Charges, Damages / Evidence, Schroeder Complains Prejudice To His Case;
Nov. 22, 2016 – Schroeder False Claims / Answer Questioned & Attorney Bollinger Refused To Respond;
Nov. 29, 2016 – Plaintiff Request Case Update Several Times & Request Written Discovery In Pleadings;
Nov. 30, 2016 – Mediation & Mediator Set for Dec. 7, 2016 By Dispute Mediation Services & Refused;
Dec. 1, 2016 – Mediation dates, Schroeder Out of Town Dec. 10- 16 Knowing Trial on Dec 14th 2016;
(Dispute Mediation Services \$100.00, Not \$300 Attorney Bollinger Pay With No Efforts & Then Denied.);
Dec. 1, 2016 – No Mediation, Bad Faith, Newly Discovered Information, Waste of Money For Mediation;
Dec. 2, 2016 – Leg Surgery Notice & Schedules, Under Specialist & Cardiologist Doctor's Medical Care;
Dec. 8, 2016 – Continuance Filed, Written Discovery Request Refused, No Mediation, Refused To Amend;
Dec. 11, 2016 – Discovery of Participating Hidden Partner & Atty Refused To Join Party Into This Lawsuit;
Dec. 12, 2016 – Notice of Meeting on 14th With Atty Bollinger & Continuance Granted To March 1, 2017;
Dec. 14, 2016 – Attorney Meeting, Refused Claims, Evidence, Use Intimidation, Threat of Withdrawal;
Dec. 14, 2016 – Atty. Bollinger Makes Demand Settlement Offer, Admits Schroeder Claimed This Theft;
Dec. 14, 2016 – Atty. Bollinger Stated Schroeder's False Claim of 4 Offers With No Details & Did Nothing;
Dec. 14, 2016 – Atty. Claims Limit Case So Particular Claims Could Not Be Made, Like Frauds, Theft, Abuse;
Dec. 15, 2016 – Atty. Gives No Clear Info On Email Clarification, Ridiculous Settlement Offer To End Case;
Dec. 28, 2016 – Refuse All Claims Added To Case Even With Proof As Judge Can't Hear For Any Redress;
Dec. 29, 2016 – Leg Surgery / Recovery, Get Well Soon, Used Nice Words To Distract Plaintiff & No Work;
January 24, 2017 – Surgery Scheduling & Settlement Offer with Amended Pleadings Demanded To File;
January 25, 2017 – Doctor Out Of Office To Submit Medical Excuse Letter to Attorney Bollinger By Fax;

2. *Elkebet A.*

January 30, 2017- Faxed Doctor's Medical Excuse Letter For Continuance & Held By Attorney Bollinger;

Feb. 4, 2017 -Dr. Medical Letter Excuse Per Attorney Email Response & Still Held From This Court;

Feb. 14, 2017 – Filed For Continuance As Claimed By Attorney is Untrue & Withheld From Court Notice;

Feb. 23, 2017 – Filed For Continuance For Trial On Feb. 28, 2017 As Attorney Held Info From This Court;

Feb. 23, 2017 - No Copy Of Court Filing Continuance, No Clear Information & No Order When Signed;

Feb. 27, 2017 – After Plaintiff Email Then Informed of Granted Continuance of Trial for Feb 28, 2017;

Mar. 15, 2017-Lawsuit Continued To June 28, 2017, No Communication Until May 8, 2017, Spam Excuse;

Mar. 16, 2017 – No Order Given Before Plaintiff Email, Update On Health, Amend Pleadings. Add Claims & Damages To Prepare Settlement Offer, No Response By Attorney Bollinger Except 6/28/17 Trial Date;

Mar. 27, 2017 – To File Amend Pleadings, Prepare Settlement Offer, Jury Trial & No Attorney Response;

April, 2017 – Amended Pleadings To Prepare Settlement Offer, Jury Trial, Update, No Atty. Response;

April, 2017 - Amended Pleadings To Prepare Settlement Offer, Jury Trial & No Attorney Response;

May 8, 2017- Email for Back Surgery, Amend Pleadings To Prepare Settlement Offer, Demand File, etc., Claims 2 month Emails In Atty Bollinger Spam Folder, No Responses To Proceed, Dec. Surgery in April; (?)

May 10, 2017- Bollinger Wants Meeting at His Office, I Can't Walk & Medicated, No Meeting & Emailed, Leave Voice Message To Bollinger & Cathy To Make Sure Response Received & No Spam Excuse;

May 10, 2017 –My Response To Work Case, Amend Pleadings, Make Corrections, Jury Trial, Settlement Offer, Copies of All Orders, Court Filings, All Documents, Questions & His False Claims As "Meritless" With No Examination of Evidence, Attorney Demands Settlement Offer Without All Claims Filed in Dec. 14, 2016, Notice of Withdrawal, Continuance Of Case Claiming Can't As Too Close To 6/28/17 Trial Date;

May 11, 2017 – Plaintiff's Response To Continuance & Hearing Withdrawal June 10, 2017, Clear Court Record & Hearing Not Filed By Atty Bollinger As Claimed With This Court on Notice of Withdrawal;

May 11, 2017 - As Surgery & Recovery Needed For Medical Care 5/15/2017, Used False Excuse As "Left Me Alone" In April, 2017 For Surgery/ Recovery of Dec. 29, 2016, Then Admitted Spam Folder Excuse For No Responses From March 15, 2017 To May 8, 2017 For Months As Planned Deal & to Quit This Case, Received 33 Pages of Court File & 5 Court Orders Emailed in Seconds By Attorney Bollinger Office;

May 11, 2017 –Notice of Withdrawal, Claims Lack of Communication & Impossible Representation With 45 Email Communications, Few Orders, No Court Filings, Atty Refused Work To Proceed, Few Responses

5 COURT ORDERS SOME REFUSED TO TURN OVER UNTIL MAY 11, 2017 & 45 EMAILS COMMUNICATED

August 4, 2016 & Oct. 6, 2016– Never Informed Plaintiff of Orders, Dates & Times; (Denied Court Status.)

December 14, 2016 – Continued For Amended Pleadings, Settlement Offer & Defendant's Work Travel;

March 1, 2017 – Continued Due To Plaintiff's Leg Surgeries, Back Procedure / Surgery & Medical Care;

June 28, 2017 – Due To Surgery, Attorney Refusal To Represent Case, Errors & Bollinger Withdrawal;

Notice To The Court To Take Note :

1. Defendant Schroeder claimed "he would win at all cost & had resources" to do deal with attorney, to throw case, not do work, refused to do Amend Pleadings, no mediation, no discovery, end lawsuit & silence Plaintiff Amrhein due to surgery;
2. Plaintiff's "Original Petition" claimed Discovery, Request for Disclosures, Request For Admissions not done by Defendant David Schroeder & not enforced by Attorney Bollinger according to Rules of Civil Procedure is not simple mistake;
3. Attorney Bollinger knew Plaintiff Amrhein was going to be hospitalized on May 15, 2017 for surgical back procedure, so this was perfect time to quit & kill this lawsuit without representation, no hearing, no ability to complain or do anything about it, so the deal was done & Defendant Schroeder was relieved of all accountability & liability & Attorney Bollinger wants payment by Court Order;
4. Unethical Attorney Bollinger & Wormington & Bollinger Law Firm along with Defendant David Schroeder got it wrong as Plaintiff Amrhein files : Plaintiff's Objections to Motion For Withdrawal of Counsel for "Good Cause" Reasons & Request for Fiat Hearing Form; Plaintiff's Motion For Continuance & "Good Cause" Reasons; Request For Jury Trial With Paid Fee; Plaintiff's First Amended Pleadings, Stated Claims With Supported Laws & General Denial Of Defendant David Schroeder's Filed False Claims In His Answer To This Lawsuit, prepared within two weekend days, which is more work than Attorney Bollinger did in One Year, which is basis for mess, poor conditions of this case, damages & subject to action, complaints, objections & denied award for any fees against laws, rules & equity;
5. Plaintiff Amrhein is filing all court documents on the way to hospital, before surgery, so "they did not silence this case or Plaintiff, but added to their own problems, because the Judge & Court is aware of breaches, unethical conduct & "Fraud Upon the Court," etc. with unfairness, manipulation, Obstruction of Justice in an effort to victimize again & more damages to Plaintiff by frauds, scam & injustices !

4.

Exhibit A

17. Attorney refuses approximately 5 times to not do the work to advance this lawsuit;
18. Attorney falsely claims the Court is limited & does not hear fraud & other claims;
19. Attorney refuses redress filed with this Court on all Plaintiff's claims in this lawsuit;
20. Attorney refuses to file Plaintiff's Amended Pleadings & correct all his filed errors;
21. Attorney refuses to ask for any Discovery from Defendant Schroeder in this lawsuit;
22. Atty. wants Plaintiff to surrender her U.S. and Texas Constitutional Rights & redress;
23. Atty showed no concern or even question Plaintiff's harm, losses & injuries in suit;
24. Attorney attempt to silence Plaintiff position with only Continuances with the Court;
25. Attorney refuses to examine Plaintiff's evidence & join indispensable party to suit;
26. Attorney begins to make excuses for Defendant Schroeder against Plaintiff's claims;
27. Attorney appeared to have made a deal with Defendant Schroeder to throw this case;
28. Atty. opinion & attitude changed dramatically & emails not answered for 2 months;
29. Attorney claimed he did not feel morally comfortable with case & refused to work ;
30. Attorney waits for open as Plaintiff having surgery May 15, 2017 to silence exposure;
31. Atty. claims filing a Motion To Withdraw with a hearing, but then no hearing filed ;
32. Atty. knew Plaintiff would be in hospital, could not respond about his misconduct;
33. Atty. files withdrawal May 11, 2017 & had signed Order within 24 hours or less ;
34. Attorney does little work in 1 year & wants no response from Plaintiff on his motion;
35. Atty. reason for withdrawal motion is false to influence & mislead Court for his deal with Defendant Schroeder, who has resources, retaliates & will stop at nothing;
36. Attorney on mission in " hurry to get Judge's signed Order on May 12, 2017 quick;"
37. Atty. urgency of signed Order was to fulfill deal, cover up, collusion & retaliation;
38. Attorney intent to silence Plaintiff & make all objections moot, so Court would not learn the truth about his misconduct, violations & manipulation of Court & process;
39. Atty. needed to have signed Order in case for any complaints made to Bar or others;
40. Plaintiff has proof of all 45 emails sent & received with Attorney as communication;
41. Plaintiff ask Atty. how many conversations he had with Defendant Schroeder? Atty. revealed false claim in our conversation as unknown, that came only from this Defendant;

42. Plaintiff asked for itemized list of Attorney's fees & no response at all for paid deal;
43. Attorneys do not work free when working, but he had "Schroeder's cover up deal;"
44. Plaintiff is glad he is removed to hire a new Attorney, but his misconduct is obvious as "Officer of the Court" under Ethical Codes & Professional Responsibility Code;
45. This Court is not required to examine Plaintiff's Objection to this Withdrawal for clear understanding as to what has gone on with Attorney, Parties & Rushed Order;
46. Plaintiff believes the Court would want to know about cover up, deals, threats /frauds to "judicial process," violating Rule of Law, Codes, Texas Rules of Civil Procedure;
47. Plaintiff challenges Motion To Withdraw Order on false claims, interference to mock this judicial process, try to throw this suit, to deal in cover up, corruption & by frauds;
48. Defendant Schroeder will stop at nothing, including filing false claims, false Police Reports, engage in a bribe or deal & retaliation to escape all liability, while stealing;
49. Defendant's ethics are drive drunk, injure party, be warned by Courts, violate his probations, go to jail, continue to drink & drive, use people, steal property, not pay his bills, retaliate against people at all cost as a Pathological & Compulsive Liar, who will bribe, deal to cover up, to prevent all liability, break existing laws & lack of integrity;
50. Attorneys attitude & no performance, should trouble this Court that is protected by a "Rush Order signed, as their cover up after false claims to mislead this Court & Judge;
51. This Court is in position to know all claims by Attorney & all claims by Plaintiff to see if rules are violated & judicial process injured with "Fraud Upon This Court;"
52. Plaintiff is filing 5 Court Documents hours before hospitalization & surgery, which Attorney thought would silence Plaintiff's claims, positions & violations of rules & laws;
53. This fraud upon the court was (1) an intentional fraud; (2) by an officer of the court; (3) which is directed at court itself; & (4) deceives this court by the Attorney;
54. Plaintiff did more work in 2 days then Attorney did in 1 Year, so why did he wait 1 year ? Please examine all facts as filed May 15, 2017 & decide all conduct affecting case as hospitalization & surgery does not silence illegal acts & "Rush Order on false claims."
- Plaintiff prays for fairness, "due process, trial by jury," redress & conclusion by Justice !

Respectfully submitted,



Darlene C. Amrhein, Plaintiff

6.



CAUSE NO. 01-SC-16-00165

DARLENE AMRHEIN

vs.

DAVID SCHROEDER

§
§
§
§
§
§

IN JUSTICE OF THE PEACE

PRECINCT 1

COLLIN COUNTY, TEXAS

ORDER ON MOTION TO WITHDRAW

On this day came on to be heard the Motion of Wormington & Bollinger and Lennie F. Bollinger to Withdraw as Counsel for Plaintiff, and the Court having considered said Motion and having reviewed the pleadings on file, is of the opinion that the Motion is well taken and should be granted.

It is accordingly, ORDERED, ADJUDGED AND DECREED that Wormington & Bollinger and Lennie F. Bollinger are permitted to withdraw as attorneys of record for Plaintiff.

Signed this 12 day of May, 2017.

JUDGE PRESIDING



VERIFICATION / AFFIDAVIT

CASE NO. 01-SC-16-00165

STATE OF TEXAS

COUNTY OF COLLIN

BEFORE ME, the undersigned Plaintiff, Darlene C. Amrhein, who swore in her capacity & individually on her sworn oath, deposed and said she prepared and signed Plaintiff's Motion For Continuance For "Good Cause" Reasons *at Fraud Upon The Court.* **DA**

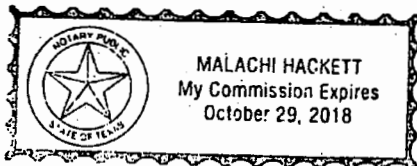
This information as referenced and stated within is true and correct and of Darlene C. Amrhein's own personal knowledge to the best of her ability & documented as true & correct. This state and or federal filing is for the purpose of "due process," fairness, Justice under State and Federal Laws & presented in the applicable Court attached as sited for consideration of this Court filing.

Darlene C. Amrhein

Darlene C. Amrhein, Plaintiff

SUBSCRIBED AND SWORN TO ME, BEFORE ME: ON MAY 13, 2017 to
Certify which witness my hand and official seal.

SEAL:



MALACHI HACKETT

Notary Public of Texas (Printed Name)

Malachi Hackett

Notary Public of Texas (Signature)

Commission Expires 10-29-2018

8.

Elkebert H

CERTIFICATE OF SERVICE

This will certify on this 15th of May, 2017 that a true & correct copy of the foregoing was forwarded to opposing parties & Honorable Judge & said Court as follows:

IN PERSON

Justice of Peace Court, Precinct 1
Judge Paul Raleeh, Suite 1164
Collin County Administration Bldg,
2300 Bloomdale Road
McKinney, Texas 75071

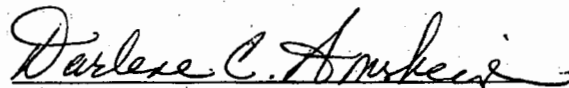
VIA MAIL-CERTIFIED # 7016 1370 0001 6790 2318 – Cancelled & Removed

Wormington & Bollinger and
Attorney Lennie F. Bollinger, JD
212 East Virginia Street
McKinney, Texas 75069

VIA MAIL- CERTIFIED # 7016 1370 0001 6790 2325

David A. Schroeder (Last known address taken from filings is 803093 & 80393)
P.O. Box 803093
Dallas, Texas 75380

Respectfully submitted,



Darlene Amrhein, Plaintiff

9.



CAUSE NO. 01-SC-16-00165

DARLENE C. AMRHEIN

vs.

DAVID SCHROEDER

IN JUSTICE OF THE PEACE

PRECINCT 1

COLLIN COUNTY, TEXAS

**PLAINTIFF'S OBJECTIONS TO MOTION FOR WITHDRAWAL OF COUNSEL FOR
"GOOD CAUSE" REASONS & REQUEST SCHEDULED FIAT HEARING FORM**

TO THE HONORABLE COURT AND JUDGE:

COMES NOW, Plaintiff Darlene Amrhein to file Plaintiff's Objections To Motion For Withdrawal Of Counsel For "Good Cause" Reasons & Request Scheduled Fiat Hearing Form and in support thereof; show the Court the following:

I.

Good Cause exists for Plaintiff's Objections to Motion For Withdrawal of Counsel Request For "Good Cause" Reasons & Request Scheduled Fiat Hearing following June 10, 2017 due to Admission to Hospital for Back Procedure on May 15, 2017 & needed medical recovery.

II.

Attorney Lennie Bollinger has raised issues in the Motion To Withdrawal that needs to be addressed as before the honorable Court & Judge for evaluation in this above numbered lawsuit.

III.

Plaintiff Amrhein has included paraphrased details of 45 emails between Plaintiff & Attorney Bollinger in reference to this lawsuit, communication, conduct of both parties, actions taken, omissions, details, unfairness & basis for these objections as filed & not for any delays.

IV.

A copy of Motion For Withdrawal of Counsel is attached as Exhibit A for reference on this Plaintiff's Objections To this Motion with a Fiat Hearing Requested Form for Court Approval.

Exhibit B

LIST OF 45 E-MAILS (OUTLINED)

May 3, 2016 – Filed Citation for Defendant Schroeder, Service & Wrong Address On Plaintiff Pleadings;
June 1, 2016 - Police Reports Requested Certified For Trial Evidence & Refused by Attorney Bollinger;
July 14, 2016 – Defendant Schroeder Filed Answer With False Claims & No Attorney Bollinger Response;
July 19, 2016 – Continuance For Mediation In Lawsuit & Attorney Bollinger Claims Can't Find Mediator;
Aug. 25, 2016- Update Mediation; (No Court Orders Aug. 4, 2016 & Oct 6, 2016 given on May 11, 2017;
Sept. 6, 2016- Plaintiff Replies to Mediation Type By Attorney Bollinger Who Does Not Find A Mediator;
Sept 6, 2016 -Defendant Schroeder Agrees to Mediation & Not Available For Several Mediation Dates;
Sept. 30, 2016 – Trial Date Moved To December 14, 2016, Schroeder Complains, No Bollinger Responses;
Nov. 2, 2016 –New Additional Charges, Damages / Evidence, Schroeder Complains Prejudice To His Case;
Nov. 22, 2016 – Schroeder False Claims / Answer Questioned & Attorney Bollinger Refused To Respond;
Nov. 29, 2016 –Plaintiff Request Case Update Several Times & Request Written Discovery In Pleadings;
Nov. 30, 2016 – Mediation & Mediator Set for Dec. 7, 2016 By Dispute Mediation Services & Refused;
Dec. 1, 2016 -Mediation dates, Schroeder Out of Town Dec. 10- 16 Knowing Trial on Dec 14th 2016;
(Dispute Mediation Services \$100.00, Not \$300 Attorney Bollinger Pay With No Efforts & Then Denied.);
Dec. 1, 2016 – No Mediation, Bad Faith, Newly Discovered Information, Waste of Money For Mediation;
Dec. 2, 2016 – Leg Surgery Notice & Schedules, Under Specialist & Cardiologist Doctor's Medical Care;
Dec. 8, 2016- Continuance Filed, Written Discovery Request Refused, No Mediation, Refused To Amend;
Dec. 11, 2016- Discovery of Participating Hidden Partner & Atty Refused To Join Party Into This Lawsuit;
Dec. 12, 2016 – Notice of Meeting on 14th With Atty Bollinger & Continuance Granted To March 1, 2017;
Dec. 14, 2016 – Attorney Meeting, Refused Claims, Evidence, Use Intimidation, Threat of Withdrawal;
Dec. 14, 2016 – Atty. Bollinger Makes Demand Settlement Offer, Admits Schroeder Claimed This Theft;
Dec. 14, 2016- Atty. Bollinger Stated Schroeder's False Claim of 4 Offers With No Details & Did Nothing;
Dec. 14, 2016-Atty. Claims Limit Case So Particular Claims Could Not Be Made, Like Frauds, Theft, Abuse;
Dec. 15, 2016- Atty. Gives No Clear Info On Email Clarification, Ridiculous Settlement Offer To End Case;
Dec. 28, 2016 – Refuse All Claims Added To Case Even With Proof As Judge Can't Hear For Any Redress;
Dec. 29, 2016 –Leg Surgery / Recovery, Get Well Soon, Used Nice Words To Distract Plaintiff & No Work;
January 24, 2017 - Surgery Scheduling & Settlement Offer with Amended Pleadings Demanded To File;
January 25, 2017- Doctor Out Of Office To Submit Medical Excuse Letter to Attorney Bollinger By Fax;

2.

Exhibit B

January 30, 2017- Faxed Doctor's Medical Excuse Letter For Continuance & Held By Attorney Bollinger;

Feb. 4, 2017 -Dr. Medical Letter Excuse Per Attorney Email Response & Still Held From This Court;

Feb. 14, 2017 – Filed For Continuance As Claimed By Attorney is Untrue & Withheld From Court Notice;

Feb. 23, 2017 – Filed For Continuance For Trial On Feb. 28, 2017 As Attorney Held Info From This Court;

Feb. 23, 2017 - No Copy Of Court Filing Continuance, No Clear Information & No Order When Signed;

Feb. 27, 2017 – After Plaintiff Email Then Informed of Granted Continuance of Trial for Feb 28, 2017;

Mar. 15, 2017-Lawsuit Continued To June 28, 2017, No Communication Until May 8, 2017, Spam Excuse;

Mar. 16, 2017 – No Order Given Before Plaintiff Email, Update On Health, Amend Pleadings. Add Claims & Damages To Prepare Settlement Offer, No Response By Attorney Bollinger Except 6/28/17 Trial Date;

Mar. 27, 2017 – To File Amend Pleadings, Prepare Settlement Offer, Jury Trial & No Attorney Response;

April, 2017 – Amended Pleadings To Prepare Settlement Offer, Jury Trial, Update, No Atty. Response;

April, 2017 - Amended Pleadings To Prepare Settlement Offer, Jury Trial & No Attorney Response;

May 8, 2017- Email for Back Surgery, Amend Pleadings To Prepare Settlement Offer, Demand File, etc., Claims 2 month Emails In Atty Bollinger Spam Folder, No Responses To Proceed, Dec. Surgery in April; (?)

May 10, 2017- Bollinger Wants Meeting at His Office, I Can't Walk & Medicated, No Meeting & Emailed, Leave Voice Message To Bollinger & Cathy To Make Sure Response Received & No Spam Excuse;

May 10, 2017 –My Response To Work Case, Amend Pleadings, Make Corrections, Jury Trial, Settlement Offer, Copies of All Orders, Court Filings, All Documents, Questions & His False Claims As "Meritless" With No Examination of Evidence, Attorney Demands Settlement Offer Without All Claims Filed in Dec. 14, 2016, Notice of Withdrawal, Continuance Of Case Claiming Can't As Too Close To 6/28/17 Trial Date;

May 11, 2017 – Plaintiff's Response To Continuance & Hearing Withdrawal June 10, 2017, Clear Court Record & Hearing Not Filed By Atty Bollinger As Claimed With This Court on Notice of Withdrawal;

May 11, 2017 - As Surgery & Recovery Needed For Medical Care 5/15/2017, Used False Excuse As "Left Me Alone" In April, 2017 For Surgery/ Recovery of Dec. 29, 2016, Then Admitted Spam Folder Excuse For No Responses From March 15, 2017 To May 8, 2017 For Months As Planned Deal & to Quit This Case, Received 33 Pages of Court File & 5 Court Orders Emailed in Seconds By Attorney Bollinger Office;

May 11, 2017 –Notice of Withdrawal, Claims Lack of Communication & Impossible Representation With 45 Email Communications, Few Orders, No Court Filings, Atty Refused Work To Proceed, Few Responses

5 COURT ORDERS SOME REFUSED TO TURN OVER UNTIL MAY 11, 2017 & 45 EMAILS COMMUNICATED

August 4, 2016 & Oct. 6, 2016– Never Informed Plaintiff of Orders, Dates & Times; (Denied Court Status.)

December 14, 2016 – Continued For Amended Pleadings, Settlement Offer & Defendant's Work Travel;

March 1, 2017 – Continued Due To Plaintiff's Leg Surgeries, Back Procedure / Surgery & Medical Care;

June 28, 2017 – Due To Surgery, Attorney Refusal To Represent Case, Errors & Bollinger Withdrawal;

Notice To The Court To Take Note :

1. Defendant Schroeder claimed "he would win at all cost & had resources" to do deal with attorney, to throw case, not do work, refused to do Amend Pleadings, no mediation, no discovery, end lawsuit & silence Plaintiff Amrhein due to surgery;
2. Plaintiff's "Original Petition" claimed Discovery, Request for Disclosures, Request For Admissions not done by Defendant David Schroeder & not enforced by Attorney Bollinger according to Rules of Civil Procedure is not simple mistake;
3. Attorney Bollinger knew Plaintiff Amrhein was going to be hospitalized on May 15, 2017 for surgical back procedure, so this was perfect time to quit & kill this lawsuit without representation, no hearing, no ability to complain or do anything about it, so the deal was done & Defendant Schroeder was relieved of all accountability & liability & Attorney Bollinger wants payment by Court Order;
4. Unethical Attorney Bollinger & Wormington & Bollinger Law Firm along with Defendant David Schroeder got it wrong as Plaintiff Amrhein files Plaintiff's Objections to Motion For Withdrawal of Counsel for "Good Cause" Reasons & Request for Fiat Hearing Form; Plaintiff's Motion For Continuance & "Good Cause" Reasons; Request For Jury Trial With Paid Fee; Plaintiff's First Amended Pleadings, Stated Claims With Supported Laws & General Denial Of Defendant David Schroeder's Filed False Claims In His Answer To This Lawsuit, prepared within two weekend days, which is more work than Attorney Bollinger did in One Year, which is basis for mess, poor conditions of this case, damages & subject to action, complaints, objections & denied award for any fees against laws, rules & equity;
5. Plaintiff Amrhein is filing all court documents on the way to hospital, before surgery, so "they did not silence this case or Plaintiff, but added to their own problems, because the Judge & Court is aware of breaches, unethical conduct & "Fraud Upon the Court," etc. with unfairness, manipulation, Obstruction of Justice In an effort to victimize and damage senior Plaintiff one more time by created scam!

3.1

Exhibit B

1. Atty. Bollinger minimize claims & damages in suit appearing to be Defendant Schroeder deal;
2. Atty. Bollinger refused to correct error(s) in original filed Pleading, ran interference in lawsuit for unfavorable outcome to Defendant Schroeder for frauds, deceptions, omissions & falsities;
3. Attorney claimed no need to respond to Defendant Schroeder's filed false answer & claims;
4. Atty. falsely claims Court limited authority for some claims to prevent filing in lawsuit, which is bias, prejudice, "conflict of interest" to protect Defendant's arrangements to cover up injuries;
5. Atty. Bollinger refused to add all claims & all damages discovered with notice & proof;
6. Atty. Bollinger withheld all court documents Plaintiff was entitled to surpress. knowledge to make informed decisions in lawsuit & only released them upon his withdrawal as was planned;
7. Atty. Bollinger gave "few responses to emails" for months to prevent redress in this case on all claims against Defendant Schroeder, which is bias, prejudice, retaliation, "conflict of interest" & sub-standard legal representation, not normal legal practice in the Texas Courts;
8. Atty. Bollinger discredit pictures, evidence & damages by Defendant to prevent redress;
9. Atty. Bollinger gave excuses as limited court, no discovery, no Amended Pleadings, no false offers disclosed by Schroeder, no ability to provide Plaintiff's settlement offer, no mediation for several dates, no indispensable party, no jury trial requested, no Orders & no court records;
10. Atty. Bollinger withheld court filed documents to prevent preparation & advancement of suit for "due process & redress" timely with knowledge of all facts, causing injuries & damages;
11. Atty. Bollinger December 14, 2016 meeting used for intimidation, created start & appearance of controlled favoritism, denied representation, errors, omissions, operating outside rules & laws;
12. Atty. Bollinger did not make Plaintiff aware of some Court Orders Aug. 4, 2016 & Oct. 6, 2016 & Orders presented at Notice of Withdrawal that was request several times for months;
13. Atty. Bollinger held information to Court for advance prior notice of continuance details;
14. Atty. Bollinger never filed for requested Jury Trial, why he could not provide Plaintiff copies of filings until May 11, 2017, upon his planned withdrawal by misconduct for Defendant ;
15. Atty. Bollinger had several conversations With Defendant Schroeder with no client-attorney relationship privilege, while denying Plaintiff Amrhein client-attorney privilege information is prejudicial to redress, fairness, "due process" & just suit outcome claims Court doesn't know;

16. Atty. Bollinger claimed Notice of Withdrawal to Plaintiff on May 11, 2017, Plaintiff's Objection & knowingly did not file for hearing as emailed to prevent knowledge of all facts in this case & Judges knowledge of clear activity for this court record, while asking for equity;
17. Atty. Bollinger tried to throw case, lessen Defendant Schroeder's damages with little to no accountability causing injuries, stress, upset & emotional distress knowingly against Plaintiff;
18. Atty. Bollinger claims unable to communicate with Plaintiff, differences of opinions, impossible client -attorney relationship & not meant for delay;
19. 45 e-mails, meeting of intimidation, no responses by Attorney Bollinger, his spam folder, no court documents requested, few Orders, continued confusion, withheld evidence for continuance, refused, facts, refuse to file valid legal claims for redress, limiting Court authority, demand for inaccurate Settlement Offer, no jury trial as requested months ago, no corrections & accuracy in filed pleadings, refusal to address false claims by Defendant Schroeder's claims in Answer, refusal to examine facts, evidence, proof, false claims of "meritless" claims without relevance, no Amended Pleadings to prepare Settlement Offer, no application of existing laws, rules, rights, no work, knowledge of theft of items, property damages & ridiculous offer to end case with bias, prejudice, "conflict of interest & retaliation, misrepresentations, omissions, cause delays, upset, unnecessary stress affecting Plaintiff's health & undue emotional distress from May 6, 2016 to present May 15, 2017 for standard normal legal representation for Plaintiff, as client, interests;
19. Good Cause exists to Withdraw per Atty. Bollinger's Motion To Withdraw is "Fraud Upon Court," fraud against Plaintiff Amrhein, Defendant Schroeder's interest to escape all liability, while violating normal legal standards & Texas License to uphold applicable laws & United States & Texas Constitutional Rights for redress, "due process," before "triers of facts;"
20. Attorney Bollinger gave no itemized bill, no accountability, while trying to deny Plaintiff Amrhein her U.S. & Texas Constitutional Rights to be heard, due process, correct pleadings, redress, fairness & Justice !
21. Attorney Bollinger was Defendant Schroeder's lawyer as all actions are for his benefit & interest in this lawsuit, while Plaintiff Amrhein was continually prejudiced with not working this lawsuit, hiding facts, silence, omissions, bias, conflicts of interest & retaliation by speculation as

merit less with no examination of evidence, no requests fulfilled, no effort & refused jury trial;

22. Attorney Bollinger decided he was attorney, judge & jury to determine this case by hearsay Of Defendant Schroeder & eliminating all Plaintiff's thefts, injuries, damages, harms, financial losses & property damages, with 5 months of these threats, abuses, thefts & frauds;

23. Attorney Bollinger engaged in delays, Fraud Upon The Court, Bias, Prejudice, Retaliation, Bad Faith, Cover up, Conspiracy, Collusion, Obstruction of Justice, Operated Below Legal Standards, Unlawful, Negligence, Gross Negligence Causing Emotional Distress, Affects Upon Plaintiff Health, Financials Losses, Property Losses, Abuses, Threats, Theft & Conversion of Plaintiff's Property For More Than 2 Years As Defendant Schroeder's Benefit To Escape Accountability And He Request An Award in Law & Equity Ordered to walk away from all above damages & injustices in violation of Professional Code of Conduct & Code of Ethics As Texas Licensed Attorney, who's own choice was to do "as little as possible" & plan to quit.

24. **December 14, 2016 meeting** with Attorney Lennie Bollinger & Plaintiff Amrhein was demonstrated bias, prejudice, "conflict of interest" & retaliation with his unbelievable opinion contrary to his own client Amrhein & was shocked with hopes his attitude would change, but it continued to get worse as the months proceeded. A case can't be prepared & evaluated without the facts, proof & evidence for Defendant's unconscionable acts against Plaintiff Amrhein. A Settlement Offer can't be prepared with all the claims in the Court Pleadings. False Claims with no response is taken as true with no objections. Attorney Bollinger claimed Defendant David Schroeder admitted to having Plaintiff's property that was taken. Refusal of evidence reduces This attorney's unbelievable statements is "speculation," which is not based on "facts." Attorney Bollinger was conflicted for his self- interest as he did not want to do the work for this case, wanted no jury trial, wanted little to no contact, made errors & misrepresentations as an attorney. Attorney Bollinger's "conflict of interest" extended to Defendant David Schroeder for his best interest, to minimize this lawsuit & "good old boy" bias for taking advantage of Plaintiff as a woman, while disregarding injuries, harms, losses, abuses, threats & theft as basis for this suit. Attorney Bollinger made conflicting confusing statements & then refused to follow through. Misconduct by Attorney Bollinger demonstrated by his misconduct, refused actions that is

b. *Elizabeth B*

expected within legal representation, codes, rules, laws & rights was unnecessary costing delays & upset creating health issues requiring continuance, more e-mails with no resolutions for Plaintiff Amrhein & lawsuit. Defendant Schroeder not accountable & doesn't object as planned!

25. Client-Lawyer Relationship

<u>Rule 1.1</u>	Competence
<u>Rule 1.2</u>	Scope of Representation and Allocation of Authority Between Client and Lawyer
<u>Rule 1.3</u>	Diligence
<u>Rule 1.4</u>	Communications
<u>Rule 1.5</u>	Fees
<u>Rule 1.6</u>	Confidentiality of Information
<u>Rule 1.7</u>	Conflict of Interest: Current Clients
<u>Rule 1.8</u>	Conflict of Interest: Current Clients: Specific Rules
<u>Rule 1.10</u>	Imputation of Conflicts of Interest: General Rule
<u>Rule 1.13</u>	Organization as Client
<u>Rule 1.15</u>	Safekeeping Property
<u>Rule 1.16</u>	Declining or Terminating Representation
<u>Rule 1.17</u>	Sale of Law Practice
<u>Rule 1.18</u>	Duties to Prospective Client

26. Maintaining the Integrity of the Profession

<u>Rule 8.1</u>	Disciplinary Matters
<u>Rule 8.2</u>	Judicial and Legal Officials
<u>Rule 8.3</u>	Professional Misconduct
<u>Rule 8.4</u>	Misconduct

27. Code of Ethics

- 1) Minimize Harm (Honesty)
- 2) Proper Conduct (Patience)
- 3) Get Along With Clients & Gain Trust (Kindness)
- 4) Faithfulness To Who You Represent
- 5) Act Fairly (Fairness)
- 6) Courage To Get The Job Done

WHEREFORE, PREMISES CONSIDERED. Plaintiff Amrhein asks this Court to evaluate facts, misconducts, omissions, list of e-mail communications applicable rules, laws, Professional Responsibility Code of Conduct, Ethics violated & Order in best interest of this case with no monetary award to Attorney Bollinger *et al.*

Respectfully submitted,

Darlene C. Amrhein
Darlene C. Amrhein, Plaintiff

7.

Exhibit B

CERTIFICATE OF SERVICE

This will certify on this 15th of May, 2017 that a true & correct copy of the foregoing was forwarded to opposing parties as follows:

VIA MAIL

Removed

Wormington & Bollinger and
Attorney Lennie F. Bollinger, JD
212 East Virginia Street
McKinney, Texas 75069

VIA MAIL

David A. Schroeder
P.O. Box 80393
Dallas, Texas 75380

Respectfully submitted,

Darlene P. Amrhein

Darlene Amrhein, Plaintiff

8. *Exhibit B*

VERIFICATION / AFFIDAVIT

CASE NO. 01-SC-16-00165

STATE OF TEXAS

COUNTY OF COLLIN

BEFORE ME, the undersigned Plaintiff, Darlene C. Amrhein, who swore in her capacity & individually on her sworn oath, deposed and said she prepared and signed Plaintiff's Objections To Motion For Withdrawal of Counsel For "Good Cause" Reasons & Requested Scheduled Fiat Hearing Form.

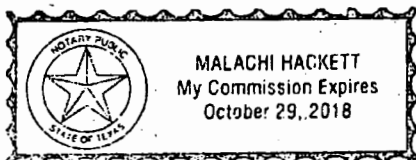
This information as referenced and stated within is true and correct and of Darlene C. Amrhein's own personal knowledge to the best of her ability & documented as true & correct. This state and or federal filing is for the purpose of "due process," fairness, Justice under State and Federal Laws & presented in the applicable Court attached as sited for consideration of this Court filing.

Darlene C. Amrhein

Darlene C. Amrhein, Plaintiff

SUBSCRIBED AND SWORN TO ME, BEFORE ME: ON MAY 13, 2017 to
Certify which witness my hand and official seal.

SEAL:



MALACHI HACKETT

Notary Public of Texas (Printed Name)

[Signature]

Notary Public of Texas (Signature)

Commission Expires 10/29/2018

9.

Exhibit B

CAUSE NO. 01-SC-16-00165

DARLENE AMRHEIN

vs.

DAVID SCHROEDER

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IN JUSTICE OF THE PEACE

PRECINCT 1

COLLIN COUNTY, TEXAS

MOTION FOR WITHDRAWAL OF COUNSEL

TO THE HONORABLE COURT:

COME NOW, Movants, Lennie F. Bollinger and Wormington & Bollinger, Attorneys for Plaintiff, Darlene Amrhein (hereinafter referred to as "Plaintiff"), and bring this Motion for Withdrawal of Counsel, and in support thereof, show the Court the following:

I.

Good Cause exists for withdrawal of Movants as counsel because Movants are unable to effectively communicate with Plaintiff in a manner consistent with good attorney-client relations. It is necessary for Plaintiff's attorney to withdraw due to a difference of opinion with Plaintiff which make continued representation of Plaintiff in this cause of action impossible.

Further, Movants would show that notice has been given to Plaintiff of all upcoming deadlines and events in this matter. Additionally, Movants notified Plaintiff of the filing of this motion and Plaintiff disagrees with the withdrawal.

This motion is not sought for the purpose of delay.

A copy of this motion has been provided to Plaintiff by mail at Plaintiff's last known address: 112 Winsley Circle, McKinney, Texas 75071 and to Plaintiff's current email address.

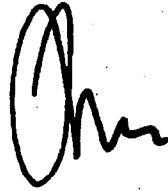
Plaintiff is hereby notified in writing of the right to object to this motion.

Exhibit A & B

WHEREFORE, PREMISES CONSIDERED, Movants pray that the Court enter an order discharging Movants as attorney of record for Plaintiff, Darlene Amrhein, and for such other and further relief that may be awarded at law or in equity.

Respectfully submitted,

WORMINGTON & BOLLINGER



BY: _____
Lennie F. Bollinger, JD
State Bar No. 24076894
lb@wormingtonlegal.com

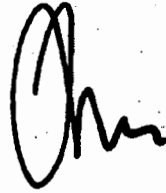
212 East Virginia Street
McKinney, Texas 75069
(972) 569-3930
(972) 547-6440 Facsimile

ATTORNEY FOR PLAINTIFF

CERTIFICATE OF CONFERENCE

I personally conferred with Defendant on 11th day of May, 2017 regarding this Motion and Defendant does not oppose with the Motion for Withdrawal.

I personally conferred with Plaintiff on the 10th day of May, 2017 regarding this Motion and Plaintiff opposes the Motion for Withdrawal.



Lennie F. Bollinger

CERTIFICATE OF SERVICE

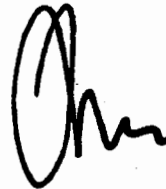
This will certify on this 11th day of May, 2017 that a true and correct copy of the foregoing was forwarded to opposing party as follows:

VIA EMAIL

David A. Schroeder
PO Box 80393
Dallas, Texas 75380

VIA EMAIL AND MAIL

Darlene Amrhein
112 Winsley Circle
McKinney, Texas 75071



Lennie F. Bollinger

Exhibit A & B

Subject: Re: Amrhein v. Schroeder

From: Darlene Balistreri-Amrhein (winsley112@yahoo.com)

To: LB@Wormingtonlegal.com;

Date: Thursday, May 11, 2017 1:01 PM

Lennie,

I called the Court & they have nothing filed.

I am filing an objection & for a hearing.

Darlene Amrhein

On Thursday, May 11, 2017 12:16 PM, Lennie Bollinger <LB@Wormingtonlegal.com> wrote:

Ms. Amrhein,

Attached is a motion to withdraw that was filed with the Court today.

Attached are copies of all documents filed with the Court and a notice of trial for June 28, 2017. These documents will be mailed to your house as well.

I was very sad to read your email. I do wish the best for you and am sorry we were not able to agree on how to prosecute your case against Mr. Schroeder. I do want you to succeed and truly do wish you the best of luck. Sometimes people disagree but it doesn't mean we cannot be civil towards one another. Best, Lennie

Lennie F. Bollinger
Wormington & Bollinger
212 East Virginia Street
McKinney, Texas 75069
972 569 3930 (office)
214 202 1104 (cell)
214 580 8298 (direct fax)
972 547 6440 (fax)
Lb@wormingtonlegal.com
www.wormingtonlegal.com

CONFIDENTIALITY NOTICE: This communication is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If you are not the intended recipient, you are notified that any use, dissemination, distribution, or copying of the communication is strictly prohibited. If you have received this communication in error, please immediately notify us by return email or telephone at 972-569-3930.

Exhibit A-B

CAUSE NO. 01-SC-16-00165

DARLENE C. AMRHEIN

vs.

DAVID SCHROEDER

IN JUSTICE OF THE PEACE

PRECINCT 1

COLLIN COUNTY, TEXAS

PLAINTIFF'S REQUESTED FIAT HEARING

Take Notice that Plaintiff's Objections To Motion For Withdrawal Of Counsel For "Good Cause" Reasons & Request Scheduled Fiat Hearing Form is hereby set for hearing on the _____ day of the _____, 2017 at _____ AM/ PM (time) in the Named Court of Justice of Peace, Precinct One at 2300 Bloomdale Road, Suite # 1164, McKinney, Collin County, Texas

Signed this _____ day of _____, 2017

Judge Paul Raleeh, Presiding

VERIFICATION / AFFIDAVIT

CASE NO. _____

STATE OF TEXAS

COUNTY OF COLLIN

BEFORE ME, the undersigned Plaintiff / Appellant Darlene C. Balistreri-Amrhein, who swore in her capacity & individually on her sworn oath, deposed and said she prepared and signed Plaintiff's ^{Amended & ~~Supplement~~} Supplement Petition & Pleadings Timely.

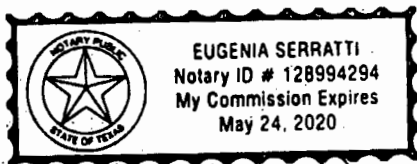
This information as referenced and stated within is true and correct and of Darlene C. Balistreri-Amrhein's own personal knowledge to the best of her ability & documented. This state and or federal filing is for purpose of "due process," fairness, Justice under State and Federal Laws & presented in applicable Court attached as sited for consideration of this Court filing.

Darlene C. Balistreri-Amrhein

Darlene C. Balistreri-Amrhein, Plaintiff, Pro Se and

SUBSCRIBED AND SWORN TO ME, BEFORE ME: ON 11/21, 2017 to
certify which witness my hand and official seal.

SEAL:



Commission Expires May 24, 2020

EUGENIA SERRATTI

Notary Public of Texas (Printed Name)

Eugenia Serratti

Notary Public of Texas (Signature)

CERTIFICATE OF SERVICE

A true and correct copy of Plaintiffs' Amended & Supplement Petition And Pleadings was served in person or by Certified Mail through the United States Post Office on Nov. 27, 2017 to the following:

Collin County Courthouse & County Court at Law In Person
Collin County District Clerk's Office
2100 Bloomdale Rd.
McKinney, TX 75071

Wormington Law Firm (W & B) Certified # 7017 0530 0000 6416 6167
212 East Virginia Street
McKinney, TX. 75069

Attorney Lennie Bollinger Certified # 7017 0530 0000 6416 6167
212 East Virginia Street
McKinney, TX. 75069

Respectfully submitted,



Darlene Balistreri-Amrhein, Plaintiff, Pro Se and
Representative for Deceased Anthony J. Balistreri

11/27/17

40.

*original***Cause No. 02-02654-2017**

DARLENE C. AMRHEIN

Plaintiff

v.

LENNIE BOLINGER

WORMINGTON & BOLLINGER
LAW FIRM, Defendants,

COUNTY COURT AT LAW

NO. 2 (JUDGE WALKER)

COLLIN COUNTY, TEXAS

STACEY KEMP
COUNTY CLERK
COLLIN COUNTY, TEXAS
BY: M. M. [Signature]
DEPUTY

2017 NOV 27 AM 11:05

FILED
COUNTY COURT AT LAW**PLAINTIFF'S MOTION TO RECUSE JUDGE WALKER AND COURT**

To the Honorable Court & Judge Barnett Walker:

Comes Now, Plaintiff Darlene C. Amrhein, to file Plaintiff's Motion To Recuse Judge Walker And Court from above styled and numbered lawsuit under Cause No. 02-02654-2017 for the following "good cause" reasons:

1. Cause No. 02-02654-2017 was filed with jury trial & is related to another lawsuit in this same Court, which gives appearance of "conflict of interest;"
2. The two lawsuits created both cases that were assigned to this same County Court at Law No. 2 with Honorable Judge Barnett Walker, which was not done on purpose, but does pose appearance of "conflict of interest" that could affect rulings, orders, with effects from either or both lawsuits, commingling decisions;
3. For that reason Plaintiff believes it is in the best interest of fairness, "due process" & justice that this Court voluntarily recuse itself or Plaintiff's motion is accepted for reassignment of this case to another County Court at Law Judge;
4. Cause No. 02-02663-2017 has already been scheduled for a pre-trial conference, which came to this Court as Notice of Appeal from Justice Court;
5. While Judge Barnett Walker knows only some of the facts in the two cases it

would be difficult to separate two cases once in the middle of this lawsuit;

6. This "new lawsuit," is partially based on the lawsuit from Notice of Appeal case that could affect the outcome of both cases & issues as unknown bias or prejudice; (Plaintiff means no disrespect by this motion as unknown to all.)

7. Plaintiff believes that this would not be intentional, but can give an appearance;

8. If this Court would rather recuse itself from the other lawsuit then that would be fine with Plaintiff as long as same judge not hearing both lawsuits by jury trial;

9. This lawsuit is just starting "due process procedures & discovery;"

10. Plaintiff is asking this Court to voluntarily recuse this Court to another Court;

11. If a recusal hearing is necessary Plaintiff will be available to attend with Judge Barnett Walker for further information as to "good cause" reasons for this motion.

Plaintiff prays for fairness, "due process" and Justice in both lawsuits.

Not meant for delay. (DA)

Respectfully submitted,

Darlene C. Amrhein

Darlene C. Amrhein, Plaintiff, Pro Se

11/26/2017

VERIFICATION / AFFIDAVIT

CASE NO. 02-02654-2017

STATE OF TEXAS

COUNTY OF COLLIN

BEFORE ME, the undersigned Plaintiff / Appellant Darlene C. Balistreri-Amrhein, who swore in her capacity & individually on her sworn oath, deposed and said she prepared and signed Plaintiff's Motion To Recuse Judge Walker And Court

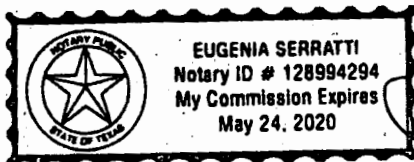
This information as referenced and stated within is true and correct and of Darlene C. Balistreri-Amrhein's own personal knowledge to the best of her ability & documented. This state and or federal filing is for purpose of "due process," fairness, Justice under State and Federal Laws & presented in applicable Court attached as sited for consideration of this Court filing.

Darlene C. Balistreri-Amrhein

Darlene C. Balistreri-Amrhein, Plaintiff, Pro Se and

SUBSCRIBED AND SWORN TO ME, BEFORE ME: ON 11/21, 2017 to
certify which witness my hand and official seal.

SEAL:



EUGENIA SERRATTI

Notary Public of Texas (Printed Name)

Eugenia Serratti

Notary Public of Texas (Signature)

Commission Expires May 24, 2020

CERTIFICATE OF SERVICE

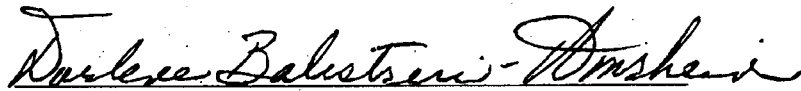
A true and correct copy of Plaintiffs' Motion To Recuse Judge Walker And Court was served in person or by Certified Mail through the United States Post Office on Nov. 27, 2017 to the following:

Collin County Courthouse & County Court at Law In Person
Collin County District Clerk's Office
2100 Bloomdale Rd.
McKinney, TX 75071

Wormington Law Firm (W & B) Certified # 7017 0530 0000 6416 6167
212 East Virginia Street
McKinney, TX. 75069

Attorney Lennie Bollinger Certified # 7017 0530 0000 6416 6167
212 East Virginia Street
McKinney, TX. 75069

Respectfully submitted,



Darlene Balistreri-Amrhein, Plaintiff, Pro Se and
Representative for Deceased Anthony J. Balistreri

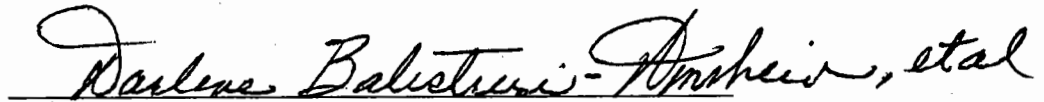
11/27/17

4.

CERTIFICATE OF CONFERENCE

There was no conference Plaintiffs' Motion To Recuse Judge Walker And Court with Defendants Bollinger & Wormington due to prepared during Thanksgiving weekend when no one was available & filed early Nov. 27, 2017 as Courthouse was closed for holiday too.

Respectfully submitted,



Darlene Balistreri-Amrhein, Plaintiff, Pro Se
& Representative for Deceased Anthony J. Balistreri

005 2654 2017

NO. 002-2654-2017

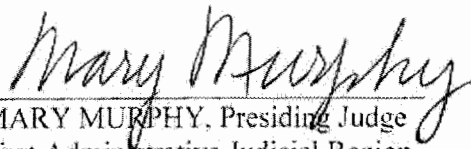
DARLENE C. AMRHEIN	§	IN THE COUNTY COURT
	§	
VS.	§	AT LAW NO. 2 OF
	§	
LENNIE BOLINGER WORMINGTON &	§	
BOLLINGER LAW FIRM	§	COLLIN COUNTY, TEXAS

ORDER TRANSFERRING

Based on a recusal, this case is transferred to the County Court at Law No. 5 of Collin County, Texas.

IT IS SO ORDERED.

Signed this 4 day of December, 2017.


MARY MURPHY, Presiding Judge
First Administrative Judicial Region

Filed
County Court at Law
12/04/2017 3:46PM
Stacey Kemp, County Clerk
Collin County, Texas
Deputy: German, Brenda

CAUSE NO. 005-02654-2017

DARLENE AMRHEIN, et al,

Plaintiffs,

vs.

ATTORNEY LENNIE F. BOLLINGER, AND
WORMINGTON & BOLLINGER LAW FIRM,

Defendants.

COUNTY COURT AT LAW

NO. 5

[Hon. Dan K. Wilson]

COLLIN COUNTY, TEXAS

Defendants Lennie F. Bollinger and Wormington & Bollinger's Rule 91a Motion to Dismiss

Defendants Lennie F. Bollinger and Wormington & Bollinger Law Firm¹ ("Defendants") file this Motion to Dismiss, pursuant to Rule 91a of the Texas Rules of Civil Procedure, in response to Plaintiff's Amended & Supplement Petition and Pleadings filed by *pro se* Plaintiff Darlene Amrhein in her individual capacity and in her representative capacity on behalf of Anthony Balistreri (collectively "Amrhein" or "Plaintiff"), and in support thereof would respectfully show the Court as follows:

I. Summary of Argument

***Pro se* plaintiff Amrhein brings an everything-but-the-kitchen-sink list of causes of action against Defendants, her former attorneys in an underlying Justice Court matter. However, all of Plaintiff's claims, but for a single claim for legal malpractice related to one underlying matter, have no basis in law or in fact. Additionally, as a *pro se* litigant, Plaintiff cannot assert claims in a representative capacity on behalf of a deceased person. Defendants respectfully request that their Motion to Dismiss be granted because, as pleaded, Plaintiff's causes of action, fully explained and listed below, do not entitle her to the relief sought and no reasonable person could believe the facts pleaded.**

¹ Wormington Law Group, PLLC d/b/a Wormington and Bollinger (incorrectly named as "Wormington & Bollinger Law Firm")

II. Factual and Procedural Background

On October 26, 2017, Plaintiff filed this lawsuit against Defendants asserting a claim for legal malpractice against Defendants. Defendants answered on November 15, 2017. On November 27, 2017, Plaintiff amended her petition but also incorporated her Original Petition into her Amended Petition. Defendants now timely file this Motion to Dismiss Plaintiff's baseless causes of action, pursuant to Rule 91a.

Plaintiff's Petition asserts many causes of action against Defendants, but no matter how Plaintiff frames these issues, her suit is for legal malpractice and sounds in negligence. As alleged in her Petition, Amrhein argues that Defendants committed legal malpractice in (1) their representation of her in *Darlene Amrhein v. David Schroeder*, in Precinct 1, Collin County Justice Court (referred to by Amrhein as "Lawsuit #1"), and (2) keeping "Balistreri's file for 5 months" and returning the file on or about November 23, 2015 (referred to by Amrhein as "Lawsuit #2").

The lawsuit Amrhein calls "Lawsuit #1" was a suit against David Schroeder for alleged "theft, conversion of property, frauds, unpaid rent for 5 months & refusal to return & pay Plaintiff's property since March 15, 2015."² Amrhein sued David Schroeder, her former tenant, for unpaid rent and damages Schroeder allegedly caused to Amrhein's property.³ During this suit, Defendants represented Amrhein but later withdrew as counsel on May 12, 2017.⁴ Plaintiff's factual allegations against Defendants related to this lawsuit involve allegedly (1) failing to communicate from December 2016 to May 2017; (2) suggesting that Amrhein settle the suit for \$200.00; (3) "refus[ing] to make additions & corrections to lawsuit # 1 by Plaintiff instructs [sic];" (3) releasing "Plaintiff's information for Schroeder's Benefit;" (4) filing the lawsuit in the "wrong court;" (5)

² Plaintiff's Amended & Supplement Petition and Pleadings, pages 1-2.

³ *Id.* at 27.

⁴ See Plaintiff's Amended & Supplement Petition and Pleadings, Exhibit A, page 7.

not disclosing that the suit was filed in the “wrong court;” (6) refusing to set mediation dates; and (7) withdrawing from the lawsuit.

Regarding “Lawsuit #2,” Plaintiff alleges that Defendants “held [Plaintiff’s] file for 5 month[s] knowing [the] statute of limitations was expiring[,] contrary to 30 day false claim for examination of [the] case.”⁵ Amrhein pleads the following sparse facts regarding Lawsuit #2: in May 2015, Defendants allegedly agreed “to examine Plaintiff’s deceased father[’s] (Anthony J. Balistreri) records for a lawsuit on his abuses, cause of death, loss of 47 pounds in less than 5 weeks, bumps, bruises, over medicated killing all his bodily functions & organs, mishandling of his care, no use of medical records, frauds against him, torture, physical & mental abuses & lack of food etc.”⁶ Then, according to Plaintiff, on or about November 23, 2015, after five months of allegedly “keeping” the file, Defendant Bollinger returned the file to Plaintiff. In the interim, Plaintiff alleges that there were “no return phone calls, no updates knowing statute of limitations was expiring as of Sept. 24, 2015[.]”⁷ As a result, Amrhein argues that she was unable to file a lawsuit *on behalf of her father* without the documents, which caused her “loss of sleep, upset, body pain, back pain, headaches, grinding teeth broken, personal injuries[.]”⁸ Amrhein purports to bring this claim regarding Lawsuit #2 against Defendants “as representative for (Deceased) Anthony Balistreri.”⁹

For the following reasons, Plaintiff’s non-legal malpractice claims and impermissibly fractured legal malpractice claims should be dismissed with prejudice because they have no basis in law or fact. Additionally, as a *pro se* litigant, Plaintiff cannot assert claims in a representative

⁵ Plaintiff’s Amended & Supplement Petition and Pleadings, page 2.

⁶ *Id.* at 20.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 1.

capacity on behalf of a deceased person. Accordingly, all of the claims Plaintiff attempts to assert related to Lawsuit #2 have no basis in law and must be dismissed.

III. Legal Standard

Rule 91a states that “a party may move to dismiss a cause of action on the grounds that it has no basis in law or fact.” Rule 91a allows the court to quickly dispose of baseless causes of action as a matter of law without considering any evidence. A cause of action has no basis in law if the allegations, taken as true, together with inferences reasonably drawn from them, do not entitle the claimant to the relief sought. Tex. R. Civ. P. 91a.1.

Courts have concluded that a cause of action has no basis in law under Rule 91a in at least two situations. In the first situation, the petition alleges too few facts to demonstrate a viable, legally cognizable right to relief. *See DeVoll v. Demonbreun*, No. 04-14-00116-CV, 2014 Tex. App. LEXIS 13865, 2014 WL 7440314, at *3 (Tex. App.—San Antonio Dec. 31, 2014, no. pet.) (“Because [plaintiff] did not allege facts demonstrating reliance or harm, his fraud claim has no basis in law.”); *Drake v. Chase Bank*, No. 02-13-00340-CV, 2014 Tex. App. LEXIS 12572, 2014 WL 6493411, at *1 (Tex. App.—Fort Worth Nov. 20, 2014, no. pet. h.) (mem. op.) (“[plaintiff] pleaded no underlying claim or facts that would support an award of damages for harm to his credit Thus, [plaintiff’s] harm-to-credit claim has no basis in law.”).

In the second situation, the petition alleges additional facts that, if true, bar recovery. *See Dailey v. Thorpe*, 445 S.W.3d 785, 789 (Tex. App.—Houston [1st Dist.] 2014, no pet.) (breach-of-fiduciary-duty claim had no basis in law because pleaded facts affirmatively demonstrated that alleged breach occurred after fiduciary relationship ceased); *Wooley v. Schaffer*, 447 S.W.3d 71, 80-81 (Tex. App.—Houston [14th Dist.] 2014, pet. filed) (Frost, C.J., concurring) (“The allegations in [plaintiff’s] live pleading . . . would not entitle [plaintiff] to the damages he seeks in

each of his causes of action under this court's precedent applying an expansive interpretation of the *Peeler* doctrine. . . . [N]one of [plaintiff's] causes of action has any basis in law.").

A cause of action has no basis in fact if no reasonable person could believe the facts pleaded. Rule 91a.1.

Except as required by Rule 91a.7 (extrinsic documents on attorney fees), the court may not consider evidence in ruling on the motion and must decide the motion based solely on the pleading of the cause of action, together with any pleading exhibits permitted by Rule 59. Tex. R. Civ. P. 91a.6.

This Motion is timely under Rule 91a.3 because it is filed within 60 days of when Defendants were served with Plaintiff's Petition.

IV. Argument and Authority

A. Motion to Dismiss Under Rule 91a

As required by the Texas Rules of Civil Procedure, Defendants assert that: **(1)** the Motion to Dismiss is made pursuant to Rule 91a; **(2)** the Motion to Dismiss is addressed to: (i) all of the causes of action brought in Amrhein's representative capacity of Anthony Balistreri, deceased, or his estate, (ii) Violations of the Texas Disciplinary Rules of Professional Conduct, (iii) Breach of Fiduciary Duty, (iv) Breach of Contract, (v) Fraud, (vi) Violations of the DTPA, (vii) Violations of the Texas Rules of Civil Procedure, (viii) "Bad Faith," (ix) Negligent Misrepresentation, (x) Conspiracy, (xi) violations of constitutional rights, and (xii) alleged discrimination; and **(3)** those causes of action have no basis in law or in fact and must be dismissed.

B. Claims on behalf of Anthony Balistreri, Deceased, or His Estate against Defendants Must Be Dismissed

In Plaintiff's Amended & Supplement Petition and Pleadings, Plaintiff Amrhein, as *pro se*, attempts to bring causes of action as a "Legal Representative for Deceased Anthony J. Balistreri,"

“Representative for (Deceased) Anthony Balistreri,” and as “Pro Se, Next of Kin & Representative for Deceased Dad, Anthony J. Balistreri”¹⁰ against Defendants. However, Anthony Balistreri, deceased, and/or his estate cannot proceed in this case as a plaintiff represented by Amrhein, a non-lawyer.

Under Texas law, a non-lawyer may not represent another party in litigation, and distinct legal entities may only proceed by a licensed attorney. *Kaminetzky v. Newman*, No. 01-10-01113-CV, 2011 Tex. App. LEXIS 10221, at *5 (Tex. App.—Houston [1st Dist.] Dec. 29, 2011, no pet.) (persons are allowed to proceed *pro se* when person is litigating his rights on his own behalf, not when litigating rights in a representative capacity); *Elwell v. Mayfield*, No. 10-04-00322-CV, 2005 Tex. App. LEXIS 6356, at *8-11 (Tex. App.—Waco Aug. 10, 2005, pet. denied) (mem. op.) (a non-attorney cannot sign pleadings on behalf of a pro-se litigant).

Rule 7 of the Texas Rules of Civil Procedure allows a person to represent herself *pro se*. Tex. R. Civ. P. 7. “This only applies, however, when the person is litigating his rights on his own behalf, instead of litigating certain rights in a representative capacity.” *Kaminetzky*, 2011 Tex. App. LEXIS 10221, at *6. Thus, a non-lawyer may not represent another party in litigation or on appeal because it constitutes the unauthorized practice of law. *See* Tex. Gov’t Code § 81.102(a).

Here, Amrhein is attempting to represent an additional plaintiff, Anthony Balistreri, deceased, or his estate, but she is not an attorney.¹¹ First, non-attorneys are not permitted to represent other parties, but only litigate, *pro se*, her own rights on her own behalf. *Kaminetzky*, 2011 Tex. App. LEXIS 10221, at *6. Thus, Amrhein’s claims in her representative capacity of Anthony Balistreri, deceased, or his estate against Defendants should be dismissed because non-lawyers are not permitted to represent other parties.

¹⁰ Plaintiff’s Amended & Supplement Petition and Pleadings, pages 1, 37, 38

¹¹ *See* Plaintiff’s Amended & Supplement Petition and Pleadings, page 38.

Second, an estate is a decedent's property and cannot appear without legal representation because it is a separate legal entity. *See* Tex. Estates Code § 22.012 (definition of "estate"); Tex. Gov't Code § 311.005(2) ("Person" includes corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity.). Courts require distinct legal entities to be represented by counsel, and do not permit *pro se* representation of an estate. *Steele v. McDonald*, 202 S.W.3d 926, 928 (Tex. App.—Waco 2006, order) (holding the representative of an estate may not appear *pro se* on behalf of the estate); *Smith v. Philley*, No. 02-12-00478-CV, 2014 Tex. App. LEXIS 1037, at *4 n.5 (Tex. App.—Fort Worth Jan. 30, 2014, no pet.) (Smith could not appear *pro se* on the trust's behalf); *In re Guetersloh*, 326 S.W.3d 737, 740 (Tex. App.—Amarillo 2010, no pet.) (trial court did not err in prohibiting Relator in his capacity as trustee from appearing without legal representation).

Furthermore, Amrhein cannot represent Anthony Balistreri, deceased, or his estate as "next friend." "Rule 44 does not grant unlicensed persons authority to practice law under the auspices of 'next friend.'" *Jimison by Parker v. Mann*, 957 S.W.2d 860, 861 (Tex. App.—Amarillo 1997) (striking the pleadings filed by a non-attorney as "next friend" of party because non-attorney drafted, signed, and filed briefs on behalf of party).

Amrhein's claims¹² as "representative" of Anthony Balistreri, deceased, or his estate must be dismissed because her claims have no basis in law, and any claim Amrhein purports to bring for other another plaintiff has no legal effect. *See* Tex. R. Civ. P. 91a.1.

¹² *See* Plaintiff's Amended & Supplement Petition and Pleadings, pages 2, 15, 20-25, 32-35.

C. Plaintiff's Claims for Violations of the Texas Disciplinary Rules of Professional Conduct Have No Basis in Law and Must Be Dismissed

Plaintiff's Petition alleges that Defendants violated the Texas Disciplinary Rules of Professional Conduct, but these claims fail as a matter of law.¹³ Violations of a Texas Disciplinary Rule of Professional Conduct do not give rise to a private cause of action nor does it create any presumption that a legal duty to a client has been breached. Tex. Disciplinary Rules of Professional Conduct, Preamble, ¶ 15; *Scott Pelley P.C. v. Wynne*, No. 05-15-01560-CV, 2017 Tex. App. LEXIS 8228, at *59 (Tex. App.—Dallas Aug. 28, 2017, pet. filed); *McGuire, Craddock, Strother & Hale, P.C. v. Transcon Realty Inv'rs, Inc.*, 251 S.W.3d 890, 896 (Tex. App.—Dallas 2008, pet. denied); *Jones v. Blume*, 196 S.W.3d 440, 449 (Tex. App.—Dallas 2006, pet. denied). Thus, Amrhein's claims regarding violations of the Texas Disciplinary Rules of Professional Conduct must be dismissed as they have no basis in law.

D. Plaintiff's Claims for Breach of Fiduciary Duty, Breach of Contract, Fraud, Violations of the DTPA, and Violations of the Texas Rules of Civil Procedure Are Impermissibly Fractured Claims for Legal Malpractice and Must Be Dismissed

Amrhein alleges causes of action for breach of fiduciary duty, breach of contract, fraud, violations of the Texas Deceptive Trade Practices Act (DTPA), and violations of the Texas Rules of Civil Procedure.¹⁴ Because it is well established under Texas law that a suit for legal malpractice is grounded in negligence and therefore sounds in tort regardless of how a plaintiff frames a complaint, these causes of action must be dismissed as they have no basis in law. They are impermissibly fractured legal malpractice claims and should not survive this Motion to Dismiss.

When the crux of the complaint is that an attorney did not provide adequate legal representation, courts do not allow a plaintiff to convert what is really a negligence claim into

¹³ See Plaintiff's Amended & Supplement Petition and Pleadings, pages 5-8, 33-35.

¹⁴ Plaintiff's impermissibly fractured claims are generally included on pages 2-4, 9, 13-17, 33-35 of her Amended Petition.

claims for fraud, breach of fiduciary duty, breach of contract, or violations of the DTPA. *See Murphy v. Gruber*, 241 S.W.3d 689, 693 (Tex. App.—Dallas 2007, pet. denied). The crux of Plaintiff's complaints in this case are that (1) with respect to Lawsuit #1, Defendants allegedly filed suit in the wrong court, refused to follow Plaintiff's instructions, and then withdrew from representing Plaintiff, which allegedly contributed to the judge dismissing Plaintiff's claims,¹⁵ and, (2) with respect to Lawsuit #2, and unrelated to the case in Justice Court, that Defendants reviewed files pertaining to Plaintiff's deceased father and allegedly did not promptly return the files to Plaintiff, which allegedly affected the ability to file a lawsuit concerning her father's death.¹⁶

Texas law is well-settled that the alleged failure to properly advise, inform and communicate are claims of professional negligence. *See Gruber*, 241 S.W.3d at 698 (attorneys' representation that the client's claims were not worth pursuing despite the fact that the attorneys knew the clients had viable and valuable claims was professional negligence); *see also Jacobs v. Tapscott*, No. 3:04-CV-1968-D, 2006 U.S. Dist. LEXIS 68619, at *4 (N.D. Tex. Sept. 25, 2006) (attorneys' failure to inform clients before settling that \$180,000 of a \$200,000 settlement was a worthless note that would never be collected was a negligence claim); *J.A. Green Dev. Corp. v. Grant Thornton, LLP*, No. 05-15-00029-CV, 2016 Tex. App. LEXIS 6847, *18-23 (Tex. App.—Dallas June 28, 2016, pet. denied) (allegations which charge that advice was wrong and incomplete are professional negligence claims).

Accordingly, Plaintiff's causes of action for breach of fiduciary duty, breach of contract, fraud, violations of the DTPA, and allegations of violations of the Texas Rules of Civil Procedure are really a means to an end to achieve a complaint of legal malpractice and should be dismissed because they have no basis in law.

¹⁵ *See* Plaintiff's Amended & Supplement Petition and Pleadings, page 29.

¹⁶ *See id.* 20.

E. Plaintiff's Breach of Fiduciary Duty Claim Has No Basis in Law or Fact

Additionally, Plaintiff's claims for breach of fiduciary duty¹⁷ fail because Plaintiff fails to allege what improper benefit Defendants obtained from representing Plaintiff. In a claim for breach of fiduciary duty, the focus is whether the attorney received an improper benefit from the representation. *J.A. Green Dev. Corp.*, No. 05-15-00029-CV, 2016 Tex. App. LEXIS 6847, *17 (Tex. App.—Dallas 2016, pet. denied); *see also Ashton v. Koonsfuller, P.C.*, No. 05-16-00130-CV, 2017 Tex. App. LEXIS 4293, *14 (Tex. App.—Dallas May 10, 2017, no pet.). Plaintiff has not alleged facts in support of her claim for breach of fiduciary duty which constitute self-dealing, deception, or misrepresentations designed to obtain an improper benefit from Defendants' representation of her. *Gibson v. Ellis*, 126 S.W.3d 324, 330 (Tex. App.—Dallas 2004, no pet.); *Goffney v. Rabson*, 56 S.W.3d 186, 194 (Tex. App.—Houston [14th Dist.] 2001, no pet.); *Nabors v. McColl*, No. 05-08-01491-CV, 2010 Tex. App. LEXIS 571, *10-12 (Tex. App.—Dallas Jan. 25, 2010, pet. denied). Thus, Amrhein's claims for breach of fiduciary duty also must be dismissed because they have no basis in fact.

F. Plaintiff's Breach of Contract Claim Has No Basis in Law

Plaintiff brings conclusory allegations of breach of contract against Defendants but does not allege enough facts to support her claim.¹⁸ In addition, these claims are impermissibly fractured claims for legal malpractice. As set forth above, "[r]egardless of the theory a plaintiff pleads, as long as the crux of the complaint is that the plaintiff's attorney did not provide adequate legal representation, the claim is one for legal malpractice." *Kimleco Petroleum v. Morrison*, 91 S.W.3d 921, 924 (Tex. App.—Fort Worth 2002, pet. denied) (citing *Greathouse v. McConnell*, 982 S.W.2d 165, 172 (Tex. App.—Houston [1st Dist.] 1998, pet. denied). A cause of action based on attorney's

¹⁷ See Plaintiff's Amended & Supplement Petition and Pleadings, pages 8-9, 22, and 33-35.

¹⁸ See *id.* at 10, 13-14, 17, 18, 19, 20, 23-24, 33.

alleged failure to perform professional service is tort rather than breach of contract, regardless of whether written contract providing for professional services exists between attorney and client. *Averitt v. PriceWaterhouseCoopers, LLP*, 89 S.W.3d 330, 333 (Tex. App.—Fort Worth 2002, no pet.); see also, *Goffney v. Rabson*, 56 S.W.3d 186, 191 (Tex. App.—Houston [14th Dist.] 2001, pet. denied) (finding claims of attorney who failed to prepare for trial and abandoned client on day of trial to be claims for malpractice instead of breach of contract)).

For example, Plaintiff's Petition involves Defendants' alleged failure to follow her instructions and suggestions. However, disobeying a client's lawful instruction has been routinely recited to be a malpractice claim, not a breach of contract claim. *McInnis v. Mallia*, No. 14-09-00931-CV, 2011 Tex. App. LEXIS 1634, 2011 WL 782229, at *7 (Tex. App.—Houston [14th Dist.] Mar. 8, 2011, pet. denied) (mem. op.); *Beck v. Looper, Reed & McGraw, P.C.*, No. 05-05-00724-CV, 2006 Tex. App. LEXIS 4568, 2006 WL 1452108, at *2 (Tex. App.—Dallas May 26, 2006, no pet.) (mem. op.); *Kimleco*, 91 S.W.3d at 923; *Zidell v. Bird*, 692 S.W.2d 550, 553 (Tex. App.—Austin 1985, no writ).

Moreover, Amrhein's claims for breach of contract arise out of the same facts as her claim for legal malpractice, and, thus, is improperly fractured. See *Haas v. George*, 71 S.W.3d 904, 910 (Tex. App.—Texarkana 2002, no pet.) (emphasizing that breach of contract action arose out of same facts as legal malpractice claim); *Cuyler v. Minns*, 60 S.W.3d 209, 216 (Tex. App.—Houston [14th Dist.] 2001, pet. denied) (concluding breach of contract claim that was an impermissible fracturing of a legal malpractice claim); *Murphy v. Mullin, Hoard & Brown, LLP*, 168 S.W.3d 288, 290 n.1 (Tex. App.—Dallas 2005, no pet.) (claim was actually a claim for professional negligence where focus of clients' allegations was negligent drafting or review of documents and

failure to timely inform clients of defects in documents). Therefore, Amrhein's "Breach of Implied & Expressed Contract (Promise)" claims must be dismissed as they have no basis in law.¹⁹

G. Plaintiff's Fraud Claims Have No Basis in Law

Amrhein argues that "Defendants keeping case 5 [sic] plus months knowing 'statute of limitations,' to September then drops it [at the] end of November is fraud[.]"²⁰ Plaintiff also makes conclusory allegations of fraud involving Defendants' legal representation of Amrhein throughout her Petition.²¹ However, Plaintiff's fraud allegations do not entitle her to the relief sought because she has not plead the existence of false material representations, reliance on these representations, or a resulting injury.

The elements of fraud are: (1) that a material representation was made; (2) the representation was false; (3) when the representation was made, the speaker knew it was false or made it recklessly without any knowledge of the truth and as a positive assertion; (4) the speaker made the representation with the intent that the other party should act upon it; (5) the party acted in reliance on the representation; and (6) the party thereby suffered injury. *Italian Cowboy Partners, Ltd. v. Prudential Ins. Co. of Am.*, 341 S.W.3d 323, 337 (Tex. 2011). Even if Amrhein's fraud allegations are to be believed, the fraud claims must fail because stating merely that "Defendants committed Frauds against Plaintiffs in Lawsuit & Representation" (and various iterations of this statement) is not enough to successfully plead a cause of action.²² Amrhein does not allege facts demonstrating reliance or harm. Thus, her fraud claim has no basis in law. *See DeVoll v. Demonbreun*, No. 04-14-00116-CV, 2014 Tex. App. LEXIS 13865, 2014 WL 7440314,

¹⁹ See Plaintiff's Amended & Supplement Petition and Pleadings, page 13.

²⁰ See *id.* at 34. Defendants maintain that Plaintiff's claims brought in her representative capacity should be dismissed because, as a non-attorney, she cannot represent another party, but include this allegation here also because it is clearly meant to accuse Defendants of fraud.

²¹ See Plaintiff's Amended & Supplement Petition and Pleadings, pages 2-3, 6, 10, 17, 19-23, 25, 28, and 33-35.

²² See *id.* at 33.

at *3 (Tex. App.—San Antonio Dec. 31, 2014, no. pet.) (trial court did not err in granting Rule 91a motion to dismiss in relation to fraud claim).

H. The Professional Services Exemption Bars Plaintiff's DTPA Claims

The DTPA expressly exempts Amrhein's claims for damages based on the rendering of a professional service, the essence of which is the providing of advice, judgment, opinion, or similar professional skill. *Brennan v. Manning*, 2007 Tex. App. LEXIS 2838 at *10-16, 2007 WL 1098476 (Tex. App.—Amarillo 2007, pet. denied) (mem. op.). Amrhein's claims are based upon legal services provided to her by Defendants, such as filing a lawsuit, recommending an amount for settlement, and evaluating the overall merits of a case.²³ The essence of those legal services was the providing of advice, judgment, opinion, or similar skill.

Amrhein's pleadings fail to allege that any of the following statutory exceptions to this exemption applies: (1) an express misrepresentation of a material fact that cannot be characterized as advice, judgment, or opinion; (2) a failure to disclose information in violation of § 17.46(b)(24); (3) an unconscionable action or course of action that cannot be characterized as advice, judgment, or opinion; (4) breach of an express warranty that cannot be characterized as advice, judgment, or opinion; or (5) a violation of § 17.46(b)(24). As such, Plaintiff's DTPA claims must be dismissed because her allegations, taken as true, together with inferences reasonable draw from them, do not entitle her to the relief sought.

I. Plaintiff's Claims for "Bad Faith" Have No Basis in Law and Must Be Dismissed

Plaintiff alleges a cause of action of "'Bad Faith' Intent."²⁴ However, no such cause of action exists. Alternatively, this is an improperly fractured cause of action for legal malpractice. Therefore, Plaintiff's claims must be dismissed because they have no basis in law.

²³ See *id.* at 16.

²⁴ See *id.* at 4-5, 33-35.

J. Plaintiff's Negligent Misrepresentation Cause of Action Must Be Dismissed

Plaintiff's claims for negligent misrepresentation²⁵ must be dismissed because they have no basis in law or fact. To establish a claim for either negligent misrepresentation, there must first be a misrepresentation. *See Isaacs v. Schleier*, 356 S.W.3d 548, 559 (Tex. App.—Texarkana, 2011, pet. denied). However, a lawyer's assessment of the merits of a case and recommendations regarding an amount of settlement is advice, judgment or opinion—not an express misrepresentation of material fact. *See Stockton v. Cotton Bledsoe Tighe & Dawson, P.C.*, 2005 Tex. App. LEXIS 241, *9-11 (Tex. App.—Beaumont Jan. 13, 2005, no pet.). Amrhein alleges that Defendants should have exercised greater diligence in their legal work, communicated more, and should have followed every one of her recommendations—not that Defendants knew but failed to disclose facts to Amrhein. *See Stockton*, 2005 Tex. App. LEXIS 241 at *9-11. Amrhein's claims do not, therefore, amount to causes of action separate from her legal malpractice claim. *See Isaacs*, 356 S.W.3d at 559; *McLendon v. Johnson & Wortley, P.C.*, 2000 Tex. App. LEXIS 1601, *11-12 (Tex. App.—Dallas Mar. 9, 2000, pet. denied).

Amrhein also cannot maintain a separate claim for negligent misrepresentation because negligent misrepresentation is, in the context of a suit against an attorney, a cause of action which permits plaintiffs who are not parties to a contract for professional services to recover from contracting professionals. *See Schwartz v. Gregg*, 2010 Tex. App. LEXIS 6086, *9, FN 3 (Tex. App.—Austin July 28, 2010, no pet.) (mem. op.); *McCamish, Martin, Brown & Loeffler v. F.E. Applying Interests*, 991 S.W.2d 787, 792 (Tex. 1999). Because Amrhein did, in fact, have a contractual relationship with Defendants for legal services, and the alleged misrepresentations

²⁵ *See id.* at 4, 18-22, 33-35.

were within the scope of Defendants' professional representation of Amrhein, there is no distinct claim for negligent misrepresentation.

Finally, Amrhein relies on the same facts to support her claim for negligent misrepresentation as those forming the basis of her legal malpractice action. Accordingly, she has not alleged a distinct cause of action for negligent misrepresentation which can be considered separately from the claims for legal malpractice. *See McLendon*, 2000 Tex. App. LEXIS 1601 at *11-13.

K. Plaintiff's Conspiracy Cause of Action Must Be Dismissed

Plaintiff's claims of conspiracy²⁶ must be dismissed because she fails to identify any facts supporting this allegation. The essential elements of a conspiracy are (1) two or more persons; (2) an object to be accomplished; (3) a meeting of minds on the object or course of action; (4) one or more unlawful, overt acts; and (5) damages as the proximate result. *Massey v. Armco Steel Co.*, 652 S.W.2d 932, 934 (Tex. 1983). A specific intent to agree to accomplish the unlawful purpose or to accomplish the lawful purpose by unlawful means is also required. *Triplex Communications, Inc. v. Riley*, 900 S.W.2d 716, 719 (Tex. 1995).

Plaintiff's conspiracy cause of action has no basis in law because Plaintiff fails to allege facts identifying the conspiring persons, the object to be accomplished, the meeting of the minds, the unlawful acts, or the damages as a proximate result of the conspiracy. Plaintiff has not alleged any facts supporting a claim of conspiracy because, given the requirement of specific intent, parties cannot engage in a civil conspiracy to be negligent. *See Triplex Communications, Inc. v. Riley*, 900 S.W.2d 716, 720 (Tex. 1995). Thus, Amrhein's allegations of conspiracy, taken as true, do not entitle her to the relief sought.

²⁶ See Plaintiff's Amended & Supplement Petition and Pleadings, pages 18, 23, 25, 30, 35; Plaintiff's Exhibit B, page 6.

Plaintiff's claims of conspiracy also have no basis in law because Defendants - a partner of a law firm and a law firm - are unable to form a conspiracy as Defendant Bollinger was, at all times, acting within the course and scope of his employment with the law firm. Any alleged conspiracy between Defendants fails because it is impossible for a partner of a law firm to conspire with himself. *See Crouch v. Trinqu*, 262 S.W.3d 417, 427 (Tex. App.—Eastland 2008, no pet.). Employees or agents of a principal acting within the course and scope of their employment or agency relationship cannot enter into a conspiracy with each other so long as they are not acting outside their capacity as an employee or agent or are not acting for a personal purpose of their own; the acts of the employees or agents are acts of the principal. *See Tex.-Ohio Gas, Inc. v. Mecom*, 28 S.W.3d 129, 138 (Tex. App.—Texarkana 2000, no pet.); *Atl. Richfield Co. v. Misty Prods., Inc.*, 820 S.W.2d 414, 421 (Tex. App.—Houston [14th Dist.] 1991, writ denied). Thus, Plaintiff's claims of conspiracy must be dismissed because they have no basis in law.

L. Alleged Violations of Plaintiff's Constitutional Rights Must Be Dismissed

Plaintiff's alleged claims for violations of her constitutional rights fail as a matter of law because Defendants are not state actors. Thus, Amrhein is not entitled to the relief sought and her claims must be dismissed. *See Tex. R. Civ. P. 91a.1*. A civil rights plaintiff must demonstrate (1) a violation of the Constitution or of federal law; and (2) that the violation was committed by someone acting under color of state law. *See Atteberry v. Nocona Gen. Hosp.*, 430 F.3d 245, 252-53 (5th Cir. 2005). That is, "the deprivation must be caused by the exercise of some right or privilege created by the State or by a rule of conduct imposed by the State or by a person for whom the State is responsible." *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 936 (1982). The party charged with the deprivation must be a person who may fairly be said to be a state actor – one who

is, in fact, a state official, one who has acted with or has obtained significant aid from state officials, or one whose conduct is otherwise chargeable to the State. *Id.* at 937.

Likewise, Plaintiff's equal protection and due process challenges fail because these claims also require state action and must be brought against state actors. *See Davis v. Fisk Elec. Co.*, 268 S.W.3d 508, 530 (Tex. 2008) ("The Equal Protection Clause protects citizens from arbitrary and capricious *state action*." (emphasis added)); *Republican Party of Tex. v. Dietz*, 940 S.W.2d 86, 91, 93 (Tex. 1997) (holding that state action is required before litigant can maintain claim under article I of Texas Constitution and that suit could not be maintained against defendant that was not state actor); *Yazdchi v. Tradestar Invs., Inc.*, 217 S.W.3d 517, 520 n.9 (Tex. App.—Houston [14th Dist.] 2006, no pet.) (rejecting due process argument where plaintiff failed to show how defendant's conduct constituted state action as required under article I, section 19 of Texas Constitution).

Defendants are not state actors. They are private citizens in private law practice. Plaintiff sets forth no factual allegations to the contrary. The fact that attorneys are licensed by the State of Texas to practice law makes no difference. A private party's actions should not be construed as state action simply because the private party is licensed by the state. *Campos v. South Tex. Beverage Co.*, 679 S.W.2d 739, 740 (Tex. App.—El Paso 1984, no writ). Thus, Plaintiff's claims of constitutional violations are baseless and must be dismissed.

M. Plaintiff's Claims of Discrimination Have No Basis in Law

Last, Plaintiff alleges claims of discrimination against Defendants.²⁷ These claims have no basis in law because Plaintiff has not alleged enough facts to survive a Motion to Dismiss. *See DeVoll v. Demonbreun*, No. 04-14-00116-CV, 2014 Tex. App. LEXIS 13865, 2014 WL 7440314, at *3 (Tex. App.—San Antonio Dec. 31, 2014, no. pet.) (holding that petition that alleges too few

²⁷ See Plaintiff's Amended & Supplement Petition and Pleadings, pages 20-23.

facts fails to demonstrate a viable, legally cognizable right to relief). Although Plaintiff claims she was discriminated against on the basis of age, gender and disability,²⁸ she alleges no facts to support this conclusory statement or describe how Defendants – her attorneys – allegedly discriminated against her. Accordingly, the allegations of discrimination must be dismissed.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendants request that:

- a. That this Motion be set for hearing by this Court as soon as possible after January 12, 2018 (21 days after the Motion is filed) but sufficiently before to the deadline for the Court to rule on the Motion which is February 5, 2018 (45 days after the filing of the Motion);
- b. That, upon hearing, the Court grant this Motion, dismissing the following causes of action or purported causes of action: (i) all of the causes of action brought in Amrhein's representative capacity of Anthony Balistreri, deceased, or his estate, (ii) Violations of the Texas Disciplinary Rules of Professional Conduct, (iii) Breach of Fiduciary Duty, (iv) Breach of Contract, (v) Fraud, (vi) Violations of the DTPA, (vii) Violations of the Texas Rules of Civil Procedure, (viii) "Bad Faith," (ix) Negligent Misrepresentation, (x) Conspiracy, (xi) violations of constitutional rights, and (xii) alleged discrimination;
- c. That the Court to rule on the Motion no later than February 5, 2018 (45 days after the filing of the Motion); and
- d. That the Court grant Defendants their attorney fees and costs pursuant to Tex. R. Civ. Proc. 91a.7 and any other relief to which Defendants are entitled.

²⁸ See Plaintiff's Amended & Supplement Petition and Pleadings, page 35.

Respectfully submitted,

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By: 

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned certifies that on 22th day of December, 2017, a true and correct copy of the foregoing document was electronically served Plaintiff Darlene Amrhein via electronic service through FileTime, e-mail, and priority mail.


CARRIE JOHNSON PHANEUF

original

CAUSE NO 05- 02654-2017

DARLENE C. AMRHEIN, et al
Plaintiffs,

COUNTY COURT AT LAW

V

NO. FIVE (5)

ATTORNEY LENNIE F. BOLLINGER, AND
WORMINGTON & BOLLINGER LAW FIRM
et al, Defendants,

COLLIN COUNTY, TEXAS

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COUNTY COURT AT LAW
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COUNTY CLERK
COLLIN COUNTY, TEXAS

**PLAINTIFF'S SPECIFIC FACTS PLEAD, OBJECTIONS, RESPONSES &
RIGHT TO RELIEF AS SOUGHT IN THIS LAWSUIT AGAINST
DEFENDANTS & THEIR MOTION TO DISMISS UNDER RULE 91a OF THE
TEXAS RULES OF CIVIL PROCEDURE FOR "GOOD CAUSE" REASONS**

To the Honorable Court And Judge Dan K. Wilson:

COMES NOW, Plaintiff Darlene C. Balistreri-Amrhein on behalf of self & as legal representative of (Deceased) Anthony J. Balistreri & his estate properly to file Plaintiff Specific Facts Plead, objections, Responses & Right To Relief As Sought In This Lawsuit Against Defendants' & Their Motion To Dismiss under Rule 91a Of The Texas Rules of Civil Procedure For "Good Cause" Reasons as follows:

I. HISTORY OF LAWSUIT

This lawsuit was filed on or about October 26, 2017 in the Collin County Court of Law No. 2, Judge Barnet Walker presiding. The Collin County Justice Court, Judge Raleeh, had transferred the David Schroeder Lawsuit to Collin County Court of Law No. 2, to this Court at the same time creating a "Conflict of Interest." Plaintiff filed a Motion To Recuse this Court & Judge Barnet Walker from this lawsuit as "Conflict of Interest with Lennie Bollinger & Wormington & Bollinger Lawsuit, which was then transferred to the County Court at Law. No 5, Judge Dan K. Wilson presiding;

II. RIGHT OF LEGAL REPRESENTATION OF PLAINTIFF ANTHONY J. BALISTRERI BY DARLENE C. BALISTRERI-AMRHEIN IN THIS LAWSUIT

Plaintiff Amrhein can represent her deceased father Anthony J. Balistreri as his

legal representative per his trust & pour over will as indicated in his legal Trust documentation & as next of kin, which has been accepted by the U.S. Federal Courts Northern & Eastern Districts of Texas, United States Supreme Court, Fifth District Circuit Court of Appeals in New Orleans twice, United States Department of Justice, United States House Judiciary Committee & United States Senate Judiciary Committee & as documented before his death by itemized statements prepared by Attorneys, signed & notarized trust & pour over will, so as next of kin, daughter, 10 years caregiver Guardian & Trustee for Anthony J. Balistreri, as a disabled incompetent & incapacitated person Plaintiff Amrhein has "legal authority" to represent him & his estate in this lawsuit; **(Exhibit J)**

III. TEXAS RULE OF CIVIL PROCEDURE RULE 91a CLAIMS:

Confused rule to eliminate baseless, meritless claims, timely notice, facts & laws to Defendants, Plausibility Standard of Claims, understood by reasonable persons on jury, eliminate legal expenses, poor, pro se & inmates; use of special interest for protection by Attorneys, prevent prosecution & all accountability on acts of frauds.

IV. SPECIFIC FACTS PLEAD & SWORN AFFIDAVIT WITH STATED CLAIMS

This applies to the Anthony J. Balistreri Lawsuit with pending "Statute of Limitations and David Schroeder Lawsuit filed for Plaintiff Darlene C. Amrhein by Defendants:

CAUSE NO. 05- 02654-2017

DARLENE C. AMRHEIN, et al
Plaintiffs,

COUNTY COURT AT LAW

V

NO. FIVE (5)

ATTORNEY LENNIE F. BOLLINGER, AND
WORMINGTON & BOLLINGER LAW FIRM
et al, Defendants,

COLLIN COUNTY, TEXAS

AFFIDAVIT OF DARLENE C. BALISTRERI-AMRHEIN

Before me, undersigned authority, on this day personally appeared Darlene C. Balistreri-

2.

Amrhein, who being by me duly sworn upon her oath deposed and stated as follows:

1. My names is Darlene C. Balistreri-Amrhein. I am over the age of eighteen years and am competent to make this Affidavit.
2. I make this Affidavit upon my personal knowledge and all statements contained herein are true and correct.
3. At the time of this Affidavit I had filed a lawsuit titled Darlene C. Amrhein, Plaintiff v. Attorney Lennie F. Bollinger And Wormington & Bollinger Law Firm, Defendants, under Cause No. 05-02654-2017 that was transferred from the County Court at Law No. 2 due to potential "conflict of interest."
4. I, interviewed with Attorney Lennie F. Bollinger at Wormington & Bollinger Law Firm, at 212 East Virginia Street, McKinney, Texas, 75069, Telephone 972-569-3930 on or about May 14, 2015.
5. At time of interview for hire I was informed to deliver to the Wormington & Bollinger Law Firm all medical records & all other related documents for a 30 day evaluation, which was done within a day or two in a large rolling black suitcase.
6. Attorney Bollinger during his review indicated that Darlene Balistreri-Amrhein had provided good documentations, outline, contacts & over all review of the facts for this pending lawsuit as provided to him directly.
7. I informed Attorney Lennie F. Bollinger that the "statute of limitations" ended on September 23, 24, 2015, which was the second anniversary to the death of Anthony J. Balistreri, father as deceased, which he claimed to understand.
8. Attorney Lennie Bollinger, while on the premises of Wormington Bollinger Law Firm Office stated he only needed 30 days to have the medical records examined by a nurse & or doctors, but would not reveal the names of medical personnel.
9. I intended to hire an attorney to represent this lawsuit on behalf of my father, Anthony J. Balistreri & his estate as his Trustee, next of kin, caregiver for 10 years & as his daughter.
10. Attorney Lennie Bollinger claimed to me that he understood my position & intentions to hire an attorney(s) timely before the "statute of limitations" expired.

11. On or about June, 2015, I began calling the Wormington & Bollinger Law Firm, specifically Attorney Lennie Bollinger for an update status & to pick up my black suitcase of files & all medical records, but was given various excuses by his person named Cathy with no responses back from Attorney Bollinger.

12. I was getting worried as the time was moving toward "statute of limitations" with no information & no status given by Attorney Bollinger.

13. At one point after the second or third excuse I went to the law office of Wormington & Bollinger Law Office to pick up my case file black suitcase & was informed Attorney Bollinger travelling as prior excuses & refused return of black suitcase.

14. Various contacts to Atty Bollinger, left messages need to return my file timely. I could not hire a new attorney without all my information & medical records, so continued to call & email Wormington & Bollinger Law Office, specifically Attorney Bollinger.

15. Sept. 23, 24, 2015 "statute of limitations" came & went with no communication from Attorney Bollinger & no communication from Wormington & Bollinger Law firm & three trips to office to recover my black suitcase records, but got more excuses from Cathy & told he was on some cruise.

16. November, 2015 I get a call with a message that Attorney Bollinger intends to bring my black suitcase file to my home on his way out of town for Thanksgiving holiday.

17. Attorney Bollinger arrived at my home at 112 Winsley Circle, McKinney, Texas from the Wormington & Bollinger Law Firm, 6.5 miles away in about 14 minutes of driving time that took 6 months to receive as returned.

18. Attorney Lennie Bollinger made excuses for his 6 months delay of return of this black suitcase file, declined to represent this case, claiming to be in a rush out of town for Thanksgiving Holiday on or about Nov. 23, 2015, long past statute of limitations more than 5 months late & 2 months past "statute of limitations, which deprived Darlene Balistreri-Amrhein the right & opportunity to hire counsel for Deceased Anthony J. Balistreri's estate as now lost & damaged forever that no one can repair. (Malpractice)

19. Attorney Bollinger would not identify & disclose all delays & medical persons in examination of the Balistreri medical records to Darlene Balistreri-Amrhein.

20. Attorney Bollinger never disclosed the examiner of this file as it was his partner Ms. Wormington as a prior nurse of only 8 years before law school & not this "highly experienced professional" that dealt with seniors, nursing homes, death & dying stated.

21. Unknown to me at time until after Attorney Bollinger left did I discover the medical files & records had not been examined at all as undisturbed in black suit case as prepared by me in a certain fashion, which was fraud, deception, concealment, non-disclosures & various violations of laws & ethics, causing losses & damages to Balistreri lawsuit.

22. The black suitcase evaluation was never done, it was held in his office with no communication, no status update, no information, while causing expiration of the "statute of limitations" damaging my rights, causing injuries & harms to me & my Dad's estate.

23. While Attorney Bollinger was at my home & rushing out the door he claimed to feel badly about all delays & offered to file suit against David Allen Schroeder for theft of my property, back rent & various issues when he returns back into town.

24. Attorney Bollinger claimed prior to Schroeder lawsuit that he was considering conversion of property with general losses & sends me a copy of his Original Pleadings that does not cover all facts & he even has it filed under a wrong address as 100 Winsley Circle, so I called & was told that is "not important" as can be amended later.

25. Attorney Schroeder was served on May 11, 2016 by process server, but not correct date & no proof of service per Wormington Law Firm & Attorney Bollinger, a message he was served at work, which was also incorrect false information, as later discovered.

26. I informed Attorney Bollinger as before that this Schroeder lawsuit was about much more than conversion of property & petition / pleadings needed to be amended along with correct address, which was ignored by him & his law office.

27. I started to email facts about case & evidence that I had in support & it's all ignored.

28. I had hired a private investigator to document the true facts of this scam, theft & it is all ignored by Attorney Bollinger & his Wormington & Bollinger law firm.

29. I prepared a list of interested persons for lawsuit witnesses & its ignored by attorney.

30. I offered to meet with Attorney Bollinger to present my evidence & facts in this case & he declines, while I feel discriminated against by age, gender & disability.

31. Attorney Bollinger claims there is a Court Order for mediation, then he refuses to set mediation with various dates, at a reasonable fee for mediation, claiming he would handle this & never did as claiming too expensive, but \$100 for half a day as offered.

32. Attorney Bollinger demanded a doctor's excuse for my medical surgical procedure for continuance, while David Schroeder provided none for not going to trial & Attorney Bollinger was silent about it to me, while acting to cover for Schroeder interests.

33. I informed Attorney Bollinger about some new information about David Schroeder & an "indispensable party" & he ignores that as faxed, but asks for a meeting on or about December 14th to 30th, 2016 at Wormington & Bollinger Law Firm, which was set.

34. Attorney Bollinger sat across from me in this meeting claiming he was not interested in any "indispensable parties & witnesses" being joined to lawsuit. I was shocked !

35. Attorney Bollinger claimed David Schroeder had admitted to holding my property & he did nothing recover to correct this theft for months or ever, not in my client interests.

36. Attorney Bollinger claimed he was not going to amend any Pleadings / Petition or make any corrections in this lawsuit, which was against my suggestions & requests.

37. Attorney Bollinger claimed he would not file for jury trial as directed by me.

38. It was clear from this December 2016 meeting that Attorney Bollinger was doing nothing, was an unethical attorney & ignored the laws that applied in this lawsuit.

39. During this meeting Cathy indicated David Schroeder called office for Attorney Bollinger & he asked what excuse did she give as his pattern & practice with me.

40. Attorney Bollinger showed empathy for David Schroeder that showed there was a real "conflict of interest" here as "just a "good old boy" against me & a nuisance case with excuses, knowing I was assaulted & lost thousands of dollars in property, was not paid for food, rent, clothing, miscellaneous, \$600.00 wine bill, thefts, conversion of my owned property, for over 5 months to present day by this con man, who got into my house by frauds, then Attorney Bollinger suggests \$200.00 settlement beyond ridiculous.

41. Atty Bollinger then claimed or otherwise he would withdraw as counsel, his own

threat claiming it didn't fit his moral standards knowing all losses, damages & assault.

42. Dec. 2016 to May, 2017 I continued to ask Attorney Bollinger to Amend Pleadings, make corrections, add indispensable party & order a jury trial, which he ignored, made no return contact until May 2017 he communicated after 5 months.

43. I filed Attorney Bollinger & Law Firms' frauds, errors, injuries, harms & damages to Justice Court Record Upon Withdrawal for exposure into Court Record. **(Exhibit A)**

44. Attorney Bollinger simply filed notice of withdrawal May, 2017, preserved nothing, return some of my client file from all the many errors he had created as an incompetent, unethical attorney for second time against me as stated within for losses & damages suffered because of all his violations of rules, laws & ethical Codes of Professional Responsibility as Texas Licensed Attorney & Law Firm.

45. What I did not know was that this lawsuit was filed in the "wrong court" by Attorney Bollinger per Judge Raleeh as learned October 13, 2017 after more than 1 year, so he had no jurisdiction & dismissed this lawsuit after examination of all my evidence & the jury sitting right outside court room door as Schroeder paraded a large coaster wagon of my personal belongings & property during pre-trial conference as my own attorney was aware of this all for months with no disclosure. **(Exhibit B – Justice Court Order)**

46. Defendants did not turn over my entire client file. I asked Judge Raleeh how these errors can all be corrected & he claimed to file Notice of Appeal to County Court at Law, which I did & case was sent. It appears deal-making has been at work in an effort to try to get all lawsuits dismissed, but Plaintiff is hiring Attorneys for both lawsuits for full accountability as matter of law. Rule 91 Motion to Dismiss does not apply as not meritless, no cause in fact & no cause in law as falsely claimed by Defendants' Attorneys, but it does prove intent, conspiracy, collusion & corruption with "conflict of interest" in suits.

47. All these errors were not my fault, but that of Attorney Bollinger & Wormington Law Firm as he considered his "own interest" & that of David Schroeder as a "conflict of interest," which is unethical, breach of duty owed, no protection of my interest, property, safety, breach of loyalty & legal interest without any laws applied as matter of law.

48. Judge Barnet Walker received this case, but a hearing claimed Judge Raleeh never ruled except to dismiss this lawsuit, so there could be No Appeal & that was now dismissed with David Schroeder's attorney's fees charged to me on or about Dec. 12, 2017 with a suggestion to file a whole new lawsuit. **(Exhibit C)**

ADDITIONAL DEFENDANTS FACTS SWORN UNDER PLAINTIFF'S OATH

Frauds Committed on employment, process, filing, service, pleadings, damages, corrections, conversion, applied laws, contacts with Schroeder, no communications, denied mediation orders, discovery, indispensable parties, witnesses, evidence, fairness, settlement, trial dates, experienced medical examiner, medical reporting, 30 days, etc.

Concealment on employment, process, filings, service, pleadings, damages, corrections, conversion, applied laws, contacts with Schroeder, no communications, mediation orders, discovery, parties as witnesses, evidence, fairness, settlement, trial dates, experienced medical examiner, no medical reporting, 30 days, "statute of limitations," no examination of files, refused return of files, harms caused, loss value, infliction of emotional distress;

Omissions -employment, process, courts, filings, fees, pleadings, damages, corrections, conversion, applied laws, contacts with Schroeder, no communications, mediation orders, mediation fees, discovery, admissions, disclosure, interrogatories, held property, no experienced medical examiner, no medical reporting, 30 days, "statute of limitations," no file examination, late files, harms caused loss value & infliction of emotional distress, etc

Conflict of Interest & Conspiracy -Defendants with David Schroeder on held property, court dates, mediation orders, threats, evidence, trial dates, discovery, admissions, disclosure, interrogatories, witnesses, settlement offers, concealments, rent, damages to property, prevent prosecution, escape all liability, Balistreri files, examine medical records & reporting, holding files causing loss of statute of limitations to prevent lawsuit;

Discriminations -**Age** as senior citizen, talked down, refused full explanations, refused to answer questions, refused communications, refused meetings, refused examination of evidence, refused witnesses, refused mediation, refused trial dates & demand for medical excuse due to surgery. **Female Gender** for sexual assault was not against Schroeder as he claimed no value & moral standards. **Disability** no consideration for Plaintiff's surgery, hospitalization, abilities. No value for Balistreri torture, cuts, bruises, starvation, loss of 47 lbs. in weeks, no medical records used, killing organ functions & talking of his life.

Bad Faith Intent - Defendants acts, omissions, results, misconduct, errors, mistakes, incompetence, frauds, negligent misrepresentations, no communications, delays, etc.

Deal Making -Defendant(s) deal making with Schroeder to throw this lawsuit, do little work, avoid discovery, keep Plaintiff's property, legal advice, delay trial dates, errors, etc.

No Employment -for frauds, negligent misrepresentations, DTPA, all negligence, negligence per se, gross negligence, malpractice, bad faith intent, delays, omissions, etc.

Loss of Property & No Due Process -Texas & U.S. Constitution claims "due process."

Pro Se & In Forma Pauperis - not illegal, **relied upon to detriment**, stolen property, financial loss, In Forma Pauperis, claims dismissed, denied prosecution, special interest crimes & violations of laws with aid of Texas, Attorneys & Courts against litigants.

Negligence per se

- the defendant violated a statute or regulation;
- the statute or regulation was designed to protect some group of people from harm;
- the plaintiff was in the group the statute aims to protect; and
- the defendant's actions caused the kind of injury that the statute was designed to protect the plaintiff (and those like him) against discriminations, taken advantage of as senior citizens, aged & disabled as Plaintiffs that Defendants violated;

Negligence

1. Duty - The defendant owed a legal duty to the plaintiff under the circumstances;
2. Breach - The defendant breached that legal duty by acting or failing to act in a certain way;
3. Causation - It was the defendant's actions (or inaction) that actually caused the plaintiff's injury; and
4. Damages - The plaintiff was harmed or injured as a result of the defendant's actions.
5. Defendants owed a duty to Plaintiff's, breached that duty by misconduct, omissions, errors, mistakes, lake of communications, bad faith intent & bad acts;

Gross Negligence

Every person is responsible for injury to the person or property of another, caused by his or her negligence. Gross negligence involves a reckless disregard for the safety of others, and may be the basis for an award of punitive damages, in addition to general and special damages. It typically involves intentional or willful indifference or lack of care. Gross negligence is a failure to use even the slightest degree of care as these Defendants did to Plaintiff in both lawsuits;

Willful, Wanton, Reckless Conduct

Willful, wanton reckless conduct takes place a shade below actual intent. Proof of willful, wanton, reckless conduct involves a high degree of likelihood that substantial harm will result to another. Two things distinguish willful, wanton, reckless conduct from negligence. Defendant must knowingly or intentionally disregard an unreasonable risk. Risk must entail a high degree of probability of causing substantial harm as Defendants did to Plaintiffs in both lawsuits;

Malpractice, Fraud & Conflict of Interest

Conflict of Interest : This category will be used when principal error is the lawyer allegedly had conflicting interest to that of client. It applies whether lawyer knew or did not know of conflict, but in this case Bollinger claims high moral standards after a 1 year & protection of Schroeder;

Failure to Follow Client's Instructions : This category is self-explanatory. It applies in cases where attorney has been given instructions to follow by client, but fails to follow Plaintiff's instructions either intentionally or unintentionally mas these Defendants did in both lawsuits.

Failure to Know or Properly Apply the Law : This category applies where attorney was unaware of legal principles involved, or where attorney did research but failed to ascertain the appropriate principles. It applies in instances of erroneous reasoning from known principles. This category applies where lawyer simply fails to see legal implications of known facts as Defendants did in both Plaintiff's lawsuits & by ignoring "statute of limitations;"

Failure to Obtain Client's Consent or to Inform Client : This category involves cases where a client asserts that, if client had been fully informed by lawyer of various alternatives or risks involved, a different course of action would have been selected. It would apply where lawyer should have communicated with client & obtained consent to proceed but Defendants did not;

Fraud : This category covers claim where primary cause of the action is the fraudulent acts of the attorneys, whether covered by insurance or not as Defendants engaged in against Plaintiffs;

Improper Withdrawal from Representation : This category applies whenever a question of representation arises. It covers instances where claimant asserts that lawyer-client relationship is established, even if attorney denies it. It also covers withdrawal from representation improperly communicated by the attorney & withholding the entire Plaintiff's file by these Defendants;

Inadequate Discovery of Facts or Inadequate Investigation : This category includes cases where claimant alleges that certain facts which should have been discovered by attorney in a careful investigation or in use of discovery procedures were not discovered or discerned by these Defendants effect outcome of 2 lawsuits, refusal to amend pleading & wrong court jurisdiction.

Lost File, Document or Evidence : This category is self-explanatory, and pertains to all instances where alleged error was due to a lost file, document, or evidence in Plaintiff's suits;

Planning or Strategy Error : This category applies, for example, to a contested proceeding where a lawyer has an adequate knowledge of facts & legal principles & makes an error in judgement as to how client's matter should be handled. The cases here are those involving allegedly wrong decisions where lawyer knows facts & law. These are usually strategy and judgement errors. This category does not apply if alleged error occurs because of a lack of knowledge of facts which should have been discovered by attorney, or clear legal principles which attorney should have known. Defendants knew of sexual assault & law as ignored;

Procrastination in Performance of Services or Lack of Follow-Up : This category applies where delay in dealing with client's matter by a lawyer causes a loss even though there may not have been a formal lapse of a time limitation, or intervention of another interest adverse to that of client, such as losses, disappearance of evidence, or loss of witnesses which occurred as a result of the lawyer's delay. Lack of follow-up is covered under this category. This includes instances where attorney has initiated some type of action, but has not followed up to make sure necessary action is taken as Defendants did in both of Plaintiff's lawsuits & then just withdrawing;

Violation of Civil Rights : This category covers any allegations made against attorney for violation of any civil rights protected by law & makes some other errors during representation.

49. David Schroeder assault's me, steals my property, threatens & refuses to return my property for more than one year; harasses me, with Attorney Bollinger & Wormington Law Firm knowing this & does nothing, does not communicate, runs by withdrawal after filing in "wrong court" causing delays, loss of property, attorney fees, so Attorney Bollinger & Wormington Law Firm is being sued for frauds, unethical acts, breaches of implied contract by words, omissions & acts, negligence, negligence per se, gross negligence, other applicable laws & Legal Malpractice, while acting in "bad faith," that was relied on to detriment of Darlene C. Balistreri-Amrhein & her deceased father's estate in both suits as stated within causing, losses, damages, harms due to Defendants' bad faith" intent & bad acts in violation of well settled laws, Obstruction of Justice, "conflict of interest, Fraud Upon Courts," Attorney's fees for this all & continued delays.

50. Attorney Bollinger & Wormington & Bollinger offered an out of court settlement of \$3,000.00 to dismiss all actions as his claimed "deductible" for his insurance carrier, Allied World, which I refused, as received by Attorney Bollinger email. **(Exhibit D)**

51. Attorney Bollinger & Law Firm "playing attorneys" in unethical ways with multiple excuses, least amount of work, to make money off the backs of litigants, licensed by State of Texas against clients, who deserve to hire real ethical attorneys & Defendants give the profession a "bad name," causing serious damages, multiple torts by frauds & misconduct

52. It appears Attorney Lennie F. Bollinger & Wormington & Bollinger have "pattern & practice" to cause destruction & violations of laws contrary to legal education, Texas licensing, knowledge & experience in their own scam set of no rules to detriment of Plaintiffs, et al, that was relied upon based on frauds, deceptions, conflicts of interest, etc.

53. Question of my legal representation of Anthony J. Balistreri & his estate was well documented throughout this black suitcase of records held for 6 months knowing the "statute of limitations" were about to expire is ignored. **Attorney Bollinger and his partner Ms. Wormington in their partnership of Wormington & Bollinger are represented by Allied World LPL Assure Lawyers Professional Liability Insurance Policy Number 0310-6143 (Exhibit E) are liable for all damages, losses, harms, injuries, delays, costs, etc. caused to Plaintiff's in Justice Court Cause Number 01-SC-16-00165; County Courts at Law: Cause No. 002-2663-2017; Cause No. 005-02654-2017** for all misconduct, breached duty, conflict of interest, age, gender & disability discriminations against these 2 seniors, 1 deceased clients Balistreri & Amrhein adopted by Texas & federal laws, refusal of required legal duties, omissions, frauds, deceptions, ignored / expired statute of limitations, negligence, negligence per se, gross negligence, lack of disclosures, lack of opportunities, lack of legal rights to sue, financial harms, threats, injuries, intentional emotional distress, loss of time by delays, prejudice, bias, lack of Texas Professional Responsibilities, false court filings, collusion, conspiracy & corruption, lack of proper jurisdiction, offenses, "bad faith," relied upon to Plaintiff's detriment & all other charges that are grounds & apart of Automatic Legal Malpractice causing harms, injuries, losses, delays, were foreseeable, as fair notice, causation for any reasonable people to get, "Obstruction of Justice," "Fraud Upon Courts," "Good Cause" Reasons for disbarment, Deceptive Trade Practices & it occurred long after any 30 day

examination period as falsely claimed by Attorney Lennie Bollinger & Wormington & Bollinger Law Firm that his own attorneys should have known before making such statement in their Motion To Dismiss under Rule 91a, which is additional proof they never looked at any paperwork of records for 6 months plus.

54. When I asked Attorney Bollinger about attorneys fees he would not respond because he knew of his "bad faith" intentions making his frauds & malpractice much worse.

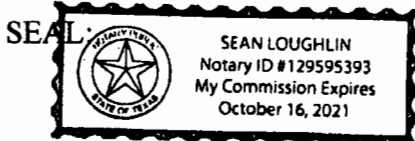
55. It appears Attorney Bollinger, Wormington Law Firm & their Attorneys engaged in some contact communications with David Schroeder & his Attorney Jerry Jarzombek.

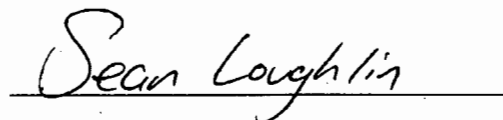
(Exhibits a to J)

Executed the 30th day of December, 2017


Darlene C. Balistreri-Amrhein

SUBSCRIBED AND SWORN TO before me on 30th day of December, 2017 to
certify which witness my hand and official seal





Notary Public of Texas (Printed Name)



Notary Public of Texas (Signature)

My Commission Expires 10/16/2021

12.

CERTIFICATE OF CONFERENCE

There was no conference on Affidavit of Darlene C. Balistreri-Amrhein as filed & served on or about January 2, 2018, because Attorneys are not available evenings, weekends & during holidays.

Plaintiff also informed them by filing that she was in hospital, medicated & very sick, so no conference could be he Respectfully submitted,

A handwritten signature in cursive script, reading "Darlene C. Balistreri-Amrhein".

Darlene C. Balistreri-Amrhein, Plaintiff, Pro Se and
Representative for Deceased Anthony J. Balistreri

12/30/17

CERTIFICATE OF SERVICE

A true and correct copy of Affidavit of Darlene C. Balistreri-Amrhein was served in person or by Certified Mail through the United States Post Office on or about January 2, 2018 to the following:

Collin County Courthouse

In Person

County Court at Law No. 5

Honorable Dan K. Wilson

Attn: Collin County District Clerk's Office

2100 Bloomdale Rd.

McKinney, TX 75071

Cobb, Martinez, Woodward, PLLC

Certified # 7017 0530.0000 6416 3241

Attorney Carrie Johnson Phaneuf

1700 Pacific Avenue, Suite 3100

Dallas, TX. 75201

Respectfully submitted,



Darlene Balistreri-Amrhein, Plaintiff, Pro Se and

Representative for Deceased Anthony J. Balistreri

12/30/17

V. RESPONSES, OBJECTIONS & "GOOD CAUSE" REASONS:

- 1) Motion To Dismiss is a strategy used to try to get a client off for illegal acts without a defense, so in this case Cobb, Martinez, Woodward PLLC by Attorney Carrie Johnson Phaneuf has knowingly filed a "frivolous" court filing;
- 2) The so-called kitchen sink claims against Defendants' Attorney Lennie F. Bollinger & Wormington & Bollinger Law Firm are very real & specific claims as stated within for the actions taken that violated rules, laws & Code of Conduct of Professional Responsibility as Texas as licensed attorneys with Plaintiff's own personal knowledge of these facts as sworn under oath by Affidavit of Darlene C. Balistreri-Amrhein & Rule 91a was not intended to aid criminal acts & wrongs;
- 3) As licensed Attorneys, they are all aware that any attorney holding a case & clients' documentation knowing the "statute of limitations" are about to expire & allowing it to pass before return of these documents on or about November 25-27, 2015 for this file has deprived by "bad faith" intent Plaintiffs' of "Right to Sue," which is automatic "Legal Malpractice" in the case for Deceased Anthony J. Balistreri as represented by Plaintiff Darlene Balistreri-Amrhein, who had direct contact & personal knowledge with Defendant Attorney Lennie F. Bollinger & his law firm & includes liability of their own disclosed Allied World LPL Liability Insurance Company with designated amounts for each claim; **(Exhibit E)**;
- 4) Plaintiff Amrhein can represent her deceased father Anthony J. Balistreri as his legal representative per his trust & pour over will as indicated in his legal Trust documentation & as next of kin, which has been accepted by the U.S. Federal Courts Northern & Eastern Districts of Texas, United States Supreme Court, Fifth District Circuit Court of Appeals in New Orleans, United States Department of Justice, United States House Judiciary Committee & United States Senate Judiciary Committee & as documented before his death by itemized statements

prepared by Attorneys, signed & notarized, so as next of kin, daughter, 10 year caregiver Guardian & Trustee for Anthony J. Balistreri, as a disabled incompetent & incapacitated person Plaintiff has "legal authority" to represent him & his estate, whether living or deceased; **(Exhibit F)**

5) If this "legal authority" to represent Anthony J. Balistreri was not possible according to Attorney Bollinger's attorneys, then why was he planning to take this case with my presentation & interview to represent Anthony J. Balistreri's estate ?

6) Plaintiff Amrhein was Collin County Court appointed caregiver & guardian from April, 2006 until October 12, 2013 following his death, at which time as also his "legal trustee to his estate" for all financial & caregiving issues that did not end by his death clearly prepared by Attorneys, stated, signed & notarized; **(Exhibit G)**

7) If Defendants Attorney Lennie Bollinger & Law Firm had examined Anthony J. Balistreri's files as "falsely claimed" that would have been a "simple material fact" & is now more proof of fraud, deceit, misrepresentations, cover up, conspiracy, by their own negligence, "conflict of interest" & illegal acts clearly contained within black suitcase of evidence held for 5 months unlawfully contributes to Defendants Legal Malpractice as contained & filed in this lawsuit;

8) Defendants Attorneys falsely claim that Plaintiff's pleadings contained many causes of action not believed by a reasonable person, so following information has been prepared on following topics applied to Texas rules, laws & understanding about all claims made in this lawsuit against Defendants, to be examined word for word as published & printed by sources & Exhibits 1 to 40 as they apply to this lawsuit by all named Bollinger & Wormington Defendants violations committed :

1. Lawyers Owed Duties, Skill & Care To Client & Defendants breached it;
2. Tort & Malpractice committed by Defendants as material stated facts;
3. Defined Legal Malpractice is one element of Defendants actions in lawsuit;

4. Legal Malpractice was committed by Defendants Bollinger & his law firm;
5. Legal Ethics – Lawyer's Responsibility were breached & violated causing suit;
6. The Texas Disciplinary Rules of Professional Conduct Defendants' violated;
7. Rule 1.01 Competent And Diligent Representation Defendants' violated;
8. Rule 1.02 Scope And Objectives Of Representation Defendants violated;
9. Rule 1.03 Communication Defendants violated causing this lawsuit;
10. Rule 1.05 Confidentiality of Information Defendants violated with Schroeder;
11. Rule 1.06 Conflict of Interest Defendants violated with David Schroeder;
12. Rule 1.14 Safekeeping Property Defendants violated Against Plaintiff's, et al;
13. Rule 1.15 Declining or Terminating Representation caused Plaintiff damages;
14. Rule 3.01 Meritorious Claims And Contentions Defendants' violated;
15. Rule 3.04 Fairness In Adjudicatory Proceedings Defendants' violated;
16. Rule 5.08 Prohibited Discriminatory Activities Defendants' violated
17. Rule 7.02 Communications Concerning Lawyer's Service Defendants' violate;
18. Rule 7.06 Prohibited Employment Defendants' violated;
19. Bar Admission, Reinstatement, And Disciplinary Matters Defendants violated;
20. Rule 8.03 Reporting Professional Misconduct & Defendants' violated to suit;
21. Rule 8.05 Jurisdiction Defendants' violated causing this lawsuit;
22. Legal Definition of Fraud Defendants' committed against Plaintiff for lawsuit;
23. Fraud in Law With References as defined committed by Defendants;
24. Tort Law, References of Civil Wrongs & Negligence Defendants' committed;
25. Negligence, Negligence per se, Gross Negligence, Duty of Care, Breach of Duty, Causation, Proximate Cause, Injury, Damages, References by Defendants;
26. Liability, Defenses and Remedies as applied to named Defendants in lawsuit;
27. Trust Law & Common Law Principles violated by named Defendants in suit;
28. Guardianship Process as stated in client file since April 2006 for Balistreri;

29. Probate stated for Plaintiff Balistreri as stated to Defendants in files & lawsuit;
30. Various Kinds of Evidence as turned over to Defendants & violated statute SOL
31. Various Damages as stated by Plaintiff's Against Defendants;
32. Economic Torts committed by Defendants as stated in this lawsuit;
33. Dignitary Torts committed by Defendants as stated in this lawsuit;
34. Texas Rule of Civil Procedure – Motion To Dismiss, Rule 91a as stated;
35. Statute of Limitations expired due to Defendants' committed violations;
36. Theft & Conversion of Property as stated & violated by Defendants in suit;
37. Assault of Person as stated & violated by Defendants misconduct acts in suit;
38. Criminal Acts violated & committed by Defendants in this stated lawsuit;
39. **Ethical codes** are adopted by organizations to assist members in understanding the difference between 'right' and 'wrong' and in applying that understanding to their decisions. An ethical code generally implies documents at three levels: codes of business ethics, codes of conduct for employees, and codes of professional practice.

The Code of Ethics maintains that you must:

- Place the integrity of the profession and the interests of clients above your own interests;
- Act with integrity, competence, and respect;
- Maintain and develop your professional competence;

40) The Standards of Professional Conduct cover:

- Professionalism and integrity of the capital markets;
- Duties to clients and employers;
- Investment analysis and recommendations;
- Conflicts of interest and your responsibilities;
- **Many kinds of illegal conduct** reflect adversely on fitness to practice law;

41) Plaintiff Amrhein made numerous calls to Attorney Bollinger & law office with excuses, tried numerous times to acquire these records before September 23, 24, 2015 with no success from his office by personal appearance, so due diligence;

42) Plaintiff left numerous messages with no response from attorney & law firm Defendants until past "statute of limitations" on or about September 24, 2015;

43) Attorney Bollinger dropped off these records at Plaintiff Amrhein's home now

worthless due to Defendants actions, frauds, violations & incompetence, etc.;

44) In the lawsuit that Attorney Lennie F. Bollinger represented Plaintiff Amrhein, (Schroeder Lawsuit) there has been a Court Order for Attorneys' Fees for his friend Defendant Schroeder, because Attorney Bollinger & Law Firm filed case in the wrong court, under wrong dollar amount, with no proper jurisdiction, again after months of no responses, numerous errors, delays for over one year plus, refusal of witness, then withdrawing to run from his own errors & illegal, unprofessional acts against Code of Conduct, causing loss of Plaintiff's "Right to Sue" as not her fault;

45) Attorneys for Lennie Bollinger & law firm falsely claim Schroeder case is pending, when it has been dismissed prior to this filing due to all errors made;

46) Attorney Bollinger on or about December 14, 2016 suggested Plaintiff settle this lawsuit for \$200.00 on a case worth \$20,208.00 & Assault by David Schroeder, while he refused to add other damages, is highly incompetent, causing Plaintiff numerous damages, so have "Right to Sue" for all Plaintiff's injuries in both cases;

47) Attorney Lennie F. Bollinger & law firm refused to set mediation dates & was always unavailable causing more damages & incomplete pleadings, causing report to the court of his incompetence & damages to Plaintiff & Lawsuit; (**Exhibit H**)

48) In Admission No. 4 Attorney Lennie Bollinger claims Defendant Schroeder considered imprudent & fundamental disagreement on conversion when he did not pay 5 plus months of rent over \$1,000.00, a \$600.00 wine bill & theft of Plaintiff's property that he filled up a large coaster wagon, so it is obvious Attorney Bollinger & Law Firm was not protecting Rights of Plaintiff's interest, causing damages & losses, against rules, laws & Code of Conduct & Professional Responsibilities;

49) It appears Attorney Bollinger & law firm were protecting interest of Defendant

Schroeder to get him off with a \$200.00 settlement & refused to file for jury trial knowing a conviction by ordinary people for his frauds, deceptions, con & scam as Plaintiff demanded as Defendants Bollinger protected him & refused all enforcement of all David Schroeder discovery, admissions & interrogatories filed;

50) Attorney Bollinger & Law Firm did not communicate with Plaintiff from December 29, 2015 to about May 14, 2016, which will be proven by my numerous emails with no responses against Code of Conduct & Professional Responsibility;

51) Attorney Lennie Bollinger & Law Firm was served with lawsuit citation / summons & petition, which caused him to offer about \$3,000 out of Court settlement, which is incredible considering all Plaintiff's losses in both cases;

52) Enclosed you will see fraudulent mission statement as advertised on Defendants' website, which was frauds & not at all Plaintiff's experiences;

53) During interview between Attorney Lennie Bollinger & Plaintiff Amrhein on May – June 2015, he claimed he needed 30 days to have doctors & nurses to examine Anthony Balistreri medical records, which was never done as the papers were not even opened in the suitcase as returned the same way after 6 months of holding our records that was "Obstruction of Justice" & frauds causing damages & losses, knowing the "statute of limitations" was only until September 23, 24, 2015;

54) This lawsuit includes all Professional Liability Insurance & or Legal Malpractice Insurance as disclosed known as Allied World Insurance Company 1690 New Britain Avenue, Suite # 101, Farmington, Ct. 06032 Telephone (860) 284-1300 Fax. (860) 284-1301 (**Exhibit E – Cover Pages & Signature Page**)

55) Plaintiff Amrhein is planning on hiring Attorneys for this lawsuit before the end of January, 2018 with notice of appearance by counsel to the Court as required;

56) Defendants refused to state attorneys fees for their frauds, negligence, bad faith intent, omissions, incompetence, discriminations, legal malpractice, illegal acts,

etc. because free frauds & negligence would not be punished as a matter of law;

VI. ADDITIONAL "GOOD CAUSE" REASONS TO DENY Rule 91a

Lawyers are not above the law !

57) By virtue of their law licenses, attorneys have a monopoly on practice of law. But lawyers were not handed this valuable position without a commensurate responsibility;

58) Lawyers must meet a stringent "standard of care" and owe their clients the fiduciary duties of good faith and fair dealing, which was breached & violated by Defendants;

59) Lawyers are not above the law, and if lawyers commit legal malpractice or breach their ethical duties, they should be held accountable as required under professional very specific & published standards;

60) Plaintiffs' have grounds to file a legal malpractice lawsuit & right to sue, if it can be established that lawyers failed to file paperwork on time; failed to provide competent legal representation; failed to honor a duty of confidentiality; failed to avoid conflicts of interest; misused funds; overcharged, or accepted a settlement offer without consent;

61) Ethics violations, file new claims, file suit against former legal counsel if necessary, and seek to recover damages;

62) It is unfortunate that sometimes even attorneys make mistakes that can cost their clients money. If an attorney has missed a deadline or made an error that has damaged or ended lawsuit case, right away to see if mistake(s) can be undone. If necessary, you can bring legal malpractice claims against current attorneys, which can be paid by his malpractice insurance coverage;

63) The attorney you hire is required to provide aggressive and zealous representation and have a thorough knowledge of the law, not protect Defendants at all costs;

64) Defendants, as lawyers, has cost Plaintiff opportunity to obtain fair compensation or

has failed to otherwise meet the responsibilities of ethical and competent representation,

- Conflict of Interest, where you do not receive the undivided loyalty of your attorney;
- Negligent opinions and advice;
- Negligent preparation of litigation engagements;
- Breach of fiduciary duty;
- Fraud;
- Overbilling, and more.

65) Lawyers owe their clients the duty of loyalty, the duty to put the client's interests first and foremost, not that of Defendant Schroeder, thief & con man; .

66) A "conflict of interest" occurs when an attorney's loyalties are divided or compromised, where attorney tries to protect interests of another, third party or himself;

67) Lawyers and law firms who engage in a "conflict of interest" violate their legal and Ethical standards & responsibilities, while Defendants even violated basic simple requirements of practicing law in Texas as licensed attorneys in both cases as filed into this lawsuit as filed notice, violated rules, laws & standards & conspired with Schroeder;

68) These Defendants' lawyers engaged in "conflict of interest" & or has failed to otherwise meet the responsibilities of ethical and competent representation & legal negligence case, which means this lawsuit is not meritless, does not require dismissal under Texas Rules of Civil Procedure Rule 91a & to do so would be Obstruction of Justice, Fraud Upon Court & grave injustices for all these damages & harms they caused;

69) Can a "reasonable person / jury understand this lawsuit" as specifically plead followed up with presented hard core evidence as to the illegal acts, scams, dereliction of duty, etc. Unreasonable circumstances, unlawful acts, negligence, rights v. wrongs is without doubt that an "ordinary person can understand to make s judgment for justice;

70) Plaintiff Amrhein belongs to a "protected class" as disabled senior citizen over the age of 40 years old & with legal counsel there is no "Pro Se," even though that is legal Plaintiff is not an inmate, while Plaintiff is entitled to "due process," heard & justice;

71) The discrimination by Defendants against Plaintiffs' age, gender & disabilities

22.

is a federal issue that has been adopted by Texas Laws as unlawfully committed by these Defendants, so this does apply to this lawsuit as stated & plead in this lawsuit as sworn;

RULE 91. SPECIAL EXCEPTIONS A special exception shall not only point out the particular pleading excepted to, but it shall also point out intelligibly and with particularity the defect, omission, obscurity, duplicity, generality, or other insufficiency in the allegations in the pleading excepted to. A general denial of facts is not evidence of no wrongdoing by illegal acts of Defendants as Attorneys;

RULE 91a. DISMISSAL OF BASELESS CAUSES OF ACTION 91a.

1. Motion and Grounds - Except in a case brought under the Family Code or a case governed by Chapter 14 of the Texas Civil Practice and Remedies Code, a party may move to dismiss a cause of action on the grounds that it has no basis in law or fact. A cause of action has no basis in law if the allegations, taken as true, together with inferences reasonably drawn from them do not entitle the claimant to the relief sought. A cause of action has no basis in fact if no reasonable person could believe the facts pleaded. 91a;

2. Contents of Motion - A motion to dismiss must state that it is made pursuant to this rule, must identify each cause of action to which it is addressed, and must state specifically the reasons the cause of action has no basis in law, no basis in fact, or both. 91a.

3. Time for Motion and Ruling - A motion to dismiss must be: (a) filed within 60 days after the first pleading containing the challenged cause of action is served on the movant; (b) filed at least 21 days before the motion is heard; and (c) granted or denied within 45 days after the motion is filed. 91a.

4 Time for Response -Any response to the motion must be filed no later than 7 days before the date of the hearing. 91a.

5. Effect of Nonsuit or Amendment; Withdrawal of Motion. (a) The court may not rule on a motion to dismiss if, at least 3 days before the date of the hearing, the respondent files a nonsuit of the challenged cause of action, or the movant files a withdrawal of the motion. (b) If the respondent amends the challenged cause of action at least 3 days before the date of the hearing, the movant may, before the date of the hearing, file a withdrawal of the motion or an amended motion directed to the amended cause of action. (c) Except by agreement of the parties, the court must rule on a motion unless it has been withdrawn or the cause of action has been nonsuited in accordance with (a) or (b). In ruling on the motion, the court must not

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consider a nonsuit or amendment not filed as permitted by paragraphs (a) or (b).
(d) An amended motion filed in accordance with (b) restarts the time periods in this rule. 91a.

6. Hearing: No Evidence Considered. Each party is entitled to at least 14 days' notice of the hearing on the motion to dismiss. The court may, but is not required to, conduct an oral hearing on the motion. Except as required by 91a.7, the court may not consider evidence in ruling on the motion and must decide the motion based solely on the pleading of the cause of action, together with any pleading exhibits permitted by Rule 59. 91a.

7. Award of Costs and Attorney Fees Required. Except in an action by or against a governmental entity or a public official acting in his or her official capacity or under color of law, the court must award the prevailing party on the motion all costs and reasonable and necessary attorney fees incurred with respect to the challenged cause of action in the trial court. The court must consider evidence regarding costs and fees in determining the award. 91a.

8. Effect on Venue and Personal Jurisdiction. This rule is not an exception to the pleading requirements of Rules 86 and 120a, but a party does not, by filing a motion to dismiss pursuant to this rule or obtaining a ruling on it, waive a special appearance or a motion to transfer venue. By filing a motion to dismiss, a party submits to the Court's jurisdiction only in proceedings on the motion and is bound by the court's ruling, including an award of attorney fees and costs against the party. 91a.

9. Dismissal Procedure Cumulative. This rule is in addition to, and does not supersede or affect, other procedures that authorize dismissal.

10. Comment to 2013 change: Rule 91a is a new rule implementing section 22.004(g) of the Texas Government Code, which was added in 2011 and calls for rules to provide for the dismissal of causes of action that have no basis in law or fact on motion and without evidence. A motion to dismiss filed under this rule must be ruled on by the court within 45 days unless the motion, pleading, or cause of action is withdrawn, amended, or nonsuited as specified in 91a. If an amended motion is filed in response to an amended cause of action in accordance with 91a.5(b), the court must rule on the motion within 45 days of the filing of the amended motion and the respondent must be given an opportunity to respond to the amended motion. The term "hearing" in the rule includes both submission and an oral hearing. Attorney fees awarded under 91a. are limited to those associated with

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challenged cause of action, including fees for preparing or responding to the motion to dismiss. Affidavit of Darlene C. Balistreri-Amrhein dated December 30, 2017;

VI. ARGUMENTS & CHALLENGES TO MOTION TO DISMISS BY RULE 91a

- 1) This is a question of laws;
- 2) Plaintiff facts & laws are not sparse in this filed lawsuit against Defendants;
- 3) Plaintiff gave proper notice to Defendants for defense preparation in suit;
- 4) Plaintiff's cited laws, rules & codes that are well-established in this lawsuit;
- 5) Code of Conduct & Professional Responsibility has been established to determine legal standards for all Texas Licensed Attorneys;
- 6) Fee shifting consequence to facts & laws cited on filed groundless dismissal;
- 7) Rule 91a is a confusing rule not used as warned; (Source George Hayek)
- 8) Plaintiff Amrhein can represent her father as Trustee to his estate as provided by Exhibit J accepted all the way to United States Supreme Court;
- 9) Defendants claim Plaintiff's causes of action are baseless;
- 10) Defendants claim too few facts in Balistreri's lawsuit, then no reliance or harm & his fraud claim has no basis for an award of damages for harm to his credit;
- 11) Abuses, cause of death, loss of 47 pounds in less than 5 weeks, bumps, bruises, over medicated killing his bodily function & organs, mishandling his care, no use of his medical records, frauds against him (Balistreri), torture, physical & mental abuses, lack of food, cover up, conspiracy, collusion, negligence, threats, gross negligence etc. are all cause of action & stated claims that violate well-established laws to support an award for damages & is illegal acts for right to sue in Texas;
- 12) Theft of rent for 5 months, theft of property while on property, damages of property, threats of harm, conversion of property, negligent misrepresentation, frauds, assault of Amrhein, scheme & con by an ex con, etc. are all stated claims, causes of action facts that are illegal under the rule of law & well-established existing laws in Texas to support award for damages & illegal acts for right to sue;
- 13) Lack of duty owed, lack of loyalty, conflict of interest, deal making, offers without consent, threats, release of confidential information, no communication, negligence, negligence per se, gross negligence, negligent misrepresentations, lies, refusal to correct errors, refused jury trial, filing case in wrong court, collusion,

cover up, conspiracy, Obstruction of Justice, Fraud Upon Courts, violations of orders, rules & laws by experienced lawyers, detrimental acts, lack of disclosure, etc. are all causes of action in violation of well-established Texas Laws that support award for damages & right to sue in Texas. Violated Statute of limitations is Automatic Malpractice & of course Defendants want that dismissed with prejudice to cover up all their illegal acts;

14) No reasonable person could believe the facts plead.....really as Plaintiff has evidence, documents, photos, tape recordings, medical records, police reports, doctors records, hospital evaluations, nurses evaluations, emails, messages, recorded phone messages, hard core evidence that anyone could understand & believe all illegal acts committed in point 11 to 13 that are violations of Texas & federal laws;

15) Defendants & their attorneys make all general statements & denials to get the law breakers off from prosecution & crimes committed under Texas laws & special interest, so that Defendants Attorneys are treated above the laws;

16) Pro Se is not illegal. Having crooks, con people, corrupt attorneys, service workers stealing your money causing financial harms, gives these crooks the right to steal more by Attorneys fees in the name of justice, so your cases are never heard & no "due process" as they would be convicted against special interest;

17) According to Rule 91a the Defendants Attorneys must address each & every individual causes of action plead by Plaintiff & that was not done on page 5-A in their motion, which does not follow Rule 91a as required, so dismissal must be denied;

18) U.S. Constitutional Rights have not been addressed individually by names, causes of action, reasons & arguments per Rule 91a, so dismissal must be denied;

19) Alleged various discriminations have not been addressed individually by names, causes of action, reasons & arguments per Rule 91a, so dismissal must be denied;

20) Violations of the Texas Disciplinary Rules of Professional Conduct have not been addressed individually by names, causes of action, reasons & arguments per Rule 91a, so dismissal must be denied;

21) All causes of action for Anthony J. Balistreri have not been addressed individually by names, causes of action, reasons & arguments per Rule 91a, so dismissal must be denied;

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22) Breach of Fiduciary Duty have not been identified by causes of action individually by names, reasons & argument per Rule 91a, so dismissal must be denied;

23) Breach of Contract have not been identified by causes of action individually by names, reasons & argument per Rule 91a, so dismissal must be denied;

24) Frauds have not been identified by causes of action individually by names, reasons & argument per Rule 91a, so dismissal must be denied;

25) Violations of DTPA have not been identified by causes of action individually by names, reasons & argument per Rule 91a, so dismissal must be denied;

26) Violations of the Texas Rules of Civil Procedure have not been identified by causes of action individually by names, reasons & argument per Rule 91a, so dismissal must be denied;

27) "Bad Faith" violations have not been identified by causes of action individually by names, reasons & argument per Rule 91a, so dismissal must be denied;

28) Negligent Misrepresentations violations have not been identified by causes of action individually by names, reasons & argument per Rule 91a, so dismissal must be denied;

29) Conspiracy violations have not been identified by causes of action by names individually, reasons & argument per Rule 91a, so dismissal must be denied;

30) All of the above points 18 to 29 have not been identified causes of action, individually names, reasons & argument to base a speculation of no basis in law & fact, so this is a violation of Rule 91a as required to deny any motion to dismiss & general statements are a violation of this Rule 91a; *Request to Amend Pleadings.*

31) Plaintiff Amrhein does not have to be a lawyer to represent the interest of her father Anthony J. Balistreri as "his Trustee" in legal, signed & notarized documents as my authority was while he was alive & after he died. (See Exhibit J), which was accepted by four U.S. Federal Courts in Texas, two Court of Appeals Circuit Courts, twice United States Supreme Court, twice U.S. Department of Justice, U.S. House Judiciary Committee, U.S. Senate Judiciary Committee, President of the United States, U.S. Attorney General, various Texas Appellate Courts & Texas District Courts, so this argument or statement is false, irrelevant & wrong as these documents were prepared, signed & notarized by my Dad in the presence of his Texas Licensed Attorneys & this is not the practice of law, but by official capacity!

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32) Plaintiff Amrhein is representing herself as pro se.

33) Plaintiff Amrhein is representing my Dad, Anthony J. Balistreri as his legal authority "Trustee" since about 2012 as he named it after me with clear specific language, while alive & all interests after death, so Plaintiff Amrhein can file suit against Defendants in behalf of Dad, Anthony J. Balistreri, as Trustee for him & his estate & as Next of Kin; (Exhibit J)

34) Evidently these Defendants Attorneys have never heard of legal Trust documents, Trustees, their authorities & the right to sue on behalf of estate; (Exhibit J);

35) Plaintiff Amrhein is not a next friend, but an officer with complete authority for Anthony J. Balistreri and his estate, that does not die with the person as prepared by Dad's Attorneys while alive, which is based on laws, facts & legal effects, so Anthony J. Balistreri claims that the Defendants Attorneys did not identify as required, must be denied under Rule 91a;

36) Darlene Balistreri-Amrhein as Trustee to this Trust have "full legal authority" for as long as the Trust exists, which is even after life to act with "fiduciary duty;

37) According to Defendants Attorneys there are no standard requirements for any Texas Attorneys to act under their Texas Law License within laws & they can commit any illegal acts they want against the public as attorneys;

38) As far as Defendants statement of legal malpractice claims, she missed the value & specifics of Plaintiff's complaint, so see Darlene Balistreri-Amrhein sworn affidavits for specific details of the Defendants illegal acts that are not meritless, baseless, are factual as it relates to violations of laws & rights, so Rule 91a must be denied on all counts as general vague statements do not support this motion;

39) Frauds, Torts, Theft, Threats, Omissions, Negligent Misrepresentations, conflict of interest, discriminations, bias, prejudice. Negligence, negligence pro se, gross negligence, deception, collusion, cover up, conspiracy, etc. all have basis in well-established laws & facts, so Rule 91a motion must be denied;

40) Legal Malpractice is illegal in Texas & a cause of action were many attorneys are prosecuted as required for these Defendants, so general denial is not sufficient, does not address specific conduct of Defendants & motion 91a must be denied;

41) Page 9 of Defendants Attorneys claims for Lawsuit # 1 & Lawsuit # 2 are not addressed properly & completely with just vague statements that do not support this Motion To Dismiss under Rule 91a, but is used to avoid prosecution of

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Defendants acting below legal standards, in violation of laws for special interest, trying to act above the law, so motion 91a must be denied. (See Darlene Balistreri-Amrhein Sworn Affidavit section IV within);

42) It can't be professional negligence if Defendants Bollinger & Wormington lied about examination of even opening the file for any examination, holding the file past "statute of limitations, refusing to return the file within 30 days, no disclosure of medical professionals not qualified to make any evaluations, commit fraud, deceptions, cover up, conspiracy & corruption as Texas licensed Attorneys running a scam against litigants & fraudulent advertisements is not baseless, meritless & is against the Rule of Law in Texas, so this Motion 91a must not survive as intent was not to protect criminal acts from prosecution & denied Constitutional Rights;

43) Self-dealing then & now, deception, misrepresentations, breach of fiduciary duty, negligent misrepresentations are specifically address in Darlene Balistreri-Amrhein's Sworn Affidavit IV section as stated within this document, which is illegal by laws & facts, so Motion For Rule 91a must be denied as the conduct, omissions, illegal acts speak for themselves & Plaintiff Amrhein has evidence to support this;

44) Defendants Attorneys want all of Defendants causes of action eliminated, scrubbed, hidden & prevented with their false claims to eliminate this lawsuit & they want everything dismissed with prejudice, which is Appealable & which will be dealt with by my new attorneys as proper notice will be given;

45) Legal representations & fraud allegations relied upon by Plaintiff is stated in Plaintiff Darlene C. Balistreri-Amrhein Sworn Affidavit, which lead to damages in Lawsuits #1 & Lawsuit # 2, which all amounts to frauds; (Point Section IV.);

46) See Plaintiff Darlene Balistreri-Amrhein's Sworn Affidavit for exemptions as the apply to expressed misrepresentations by Defendants of "material facts, that was not advice, skill or judgment or opinion, failure to disclose information in violation of § 17.46(b)(24), unconscionable actions or courses of action, breach of expresses warranty that was not advice, judgment or opinion, & fraud violations § 17.46 (b)(24) that requires relief sought according to the law under DTPA, so this Rule 91a must be denied;

47) According to Defendants Attorneys it is legal to act with bad faith intent, to deceive & cheat people as long as they can find Attorneys that do not follow the laws & their reward is to escape all prosecution as they can do as they please;

48) See Plaintiff Darlene Balistreri-Amrhein's Sworn Affidavit for all negligent misrepresentations by Defendant's were not judgments, advice or opinions, but deceptions, lies, incompetence & intentional infliction of harms & emotional distress, not baseless or meritless, in violation of Rule 91a, which must be denied;

49) So according to Defendants Attorneys a fraudulent expressed, oral or written contract with a professional attorney, who is a crook, running a scam there is no prosecution for frauds & negligent misrepresentations because of special interest as attorneys; This is beyond illegal, unlawful & ridiculous as plenty of attorneys have lost their license to practice & are sitting in jail for the things they did to clients;

50) Conspiracy of Defendant Bollinger & Defendant Wormington conspire to take Plaintiff's medical records, not examine them, hold them past "statute of limitations" to destroy all opportunity to sue. In the Schroeder case 'conflict of interest by Defendants Bollinger & Wormington to protect Schroeder interest, throw case, file in wrong court, no discovery, no witnesses, no jury trial & just withdraw because of their "high moral standards of incompetence & corruption by meeting of the minds. Unlawful acts, & damages of \$20,208.00 in damages by this conspiracy, delays, attorney fees, with just a simple withdrawal that is basis of this lawsuit for their unlawful purposes; (See Plaintiff Darlene C. Balistreri-Amrhein Sworn Affidavit Section IV within), Pattern & Practices to lie to clients !

51) Ms. Wormington is a party to this lawsuit with Bollinger & office person Cathy & David Schroeder to keep Plaintiff's stolen property, to file in wrong court, to prevent mediation, prevent discovery, amended pleadings, no communications, prevent witnesses & refuse jury trial. Wormington & Bollinger did nothing with Balistreri's filed for 6 months by conspiracy to cause harm to Plaintiff, who now has legal right to sue for all damages in both cases & violated Constitutional Rights;

52) Plaintiff did not employ Bollinger & law firm to commit illegal acts & frauds against us, so not within scope of employment, but for purpose of their own use.

53) Bollinger & Wormington are licensed by the State of Texas, which adopts federal laws & prohibits discrimination, illegal acts like fraud, cover up, conspiracy, theft, threats, commissions in crimes, etc., so the goal here is to have their license to practice law revoked & shut down to prevent their illegal acts.

54) Bollinger & Wormington discriminated against Plaintiffs for senior ages, Plaintiff's gender & disability, plus Deceased Balistreri, which is illegal in Texas & they thought they could lie to get by without Plaintiff being aware of their misconduct in their negligent misrepresentations, omissions & fraudulent acts;

VII. PRAYERS FOR RELIEF SOUGHT

Plaintiff prays for this lawsuit to be heard with full due process in the interest of justice as Attorneys will be hired to represent in an orderly fashion according to rules laws & process. **No one is above the law**, which includes offending Defendants Attorneys for their misconducts, errors, mistakes, omissions, violations of rules, laws & process. Plaintiffs were entitled to real qualified Attorneys to represent their legal rights. This was not received from Defendants Bollinger & Wormington & Bollinger Law Firm. While legal malpractice is obvious, they did so much more to affect Plaintiff's Rights. This is not a meritless, baseless with no understanding by an ordinary reasonable person. If we follow Rule 91a & Defendants Attorneys logic all attorneys can do anything without any accountability. There are no reasons for any laws, rules, rights, statutes & codes because Attorneys can do what they want in private practice under a Texas license that can harm, injure, hurt, offend, causing losses, sexual assault, theft, threats, steal property, damage property, convert property, not pay any rent, utilities, food for 5 months by frauds, con, schemes, by jail released con man, causing fear, intention infliction of emotional distress, "bad faith" intent, deny Constitutional Rights of "due process" in loss of property, "statute of limitations" are meaningless, jurisdiction does not matter, wrong court not a problem, just walk away, without turning over files, lie about service, refuse to amend pleading or correct errors, refuse all pleadings & damages, engage in "conflict of interest," protect offending criminal Defendant Schroeder, refuse mediation Orders, cause delays, take advantage of seniors, answer no questions, no communications, refuse meetings, evidence, witnesses, deny all illegal acts & just dismiss unlawfully with prejudice so there is no accountability for these Defendants. Six Months Defendants had Deceased Anthony Balistreri medical records, don't know his medical conditions, his included Trust documents, 14 pictures of evidence from starvation, bruises & torture, produce no medical reports by medical professionals as promised. Really ?? Seriously? A \$20,208.00 damage lawsuit with David Schroeder as itemized & then a settlement offer by Defendants for \$200.00 with property damages, personal sexual assault, property theft & no paid rent, food, wine & utilities for over 5 months is beyond ridiculous. The outcome of this lawsuit with all this evidence, pictures, invoices, 3 Police Reports, size of a suitcase, now value is zero is a simple lawsuit from man who spent 6 months in jail & 2 years of repeated probation offenses, who engaged in perverted behavior for years. The filing in wrong court, wrong jurisdiction, no complete pleadings, no discovery, 5 months no communications, threats to withdraw because of Attorneys moral standards to protect offending David Schroeder "conflict of interest," negligence, malpractice, illegal acts & misconduct require "accountability" for these Defendants as many other attorneys forced in name of Justice. Rule 91a is not to protect offenders & allow them to injure Plaintiffs as claimed by their Attorneys that everything should just be dismissed with prejudice.

Ex 4 to 5.

Ex 1-33

Respectfully submitted,

Darlene C. Balistreri-Amrhein

Darlene C. Balistreri-Amrhein, Plaintiff

*any missing Ex are due
to printer stopped working. 31.*

4/2/2018

